

The Gazette of India

PUBLISHED BY AUTHORITY

NEW DELHI, SATURDAY, FEBRUARY 15, 1947

 Separate paging is given to this Part in order that it may be filed as a separate compilation

PART V

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA

LEGISLATIVE ASSEMBLY DEPARTMENT

The following Report of the Select Committee on the Bill to make provision for the investigation and settlement of industrial disputes, and for certain other purposes, was presented to the Legislative Assembly on the 3rd February, 1947:—

We, the undersigned, members of the Select Committee to which the Bill to make provision for the investigation and settlement of industrial disputes, and for certain other purposes was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Clause 2.—We consider that the definitions of "lock-out" and "strike" should be brought more into line, and propose accordingly the omission of the concluding lines in the former definition. In the definition of "public utility service" we have made three substantial changes: (i) we include sections of industrial establishments on the continued working of which the safety of the concern and the workmen depends, (ii) we suggest limiting the wide scope of the power to add by notification to the definition to the classes of industries we include in a Schedule added to the Bill, and (iii) we take transport, other than railways, to this Schedule. We also propose making it clear that apprentices are "workmen". The other changes in this clause are formal.

Clause 3.—The concluding lines of sub-clause (1) have been recast to make it clear that the workmen's representatives on Works Committees shall be chosen from among the workmen themselves, and that the trade union to be consulted should be registered. Sub-clause (2) has been revised in an endeavour to remove its somewhat pessimistic outlook.

Clause 5.—We consider that in all cases Boards should consist of equal numbers of representatives under an independent chairman, and have amended the clause accordingly.

Clause 7.—The omission of "ordinarily" is formal.

Clause 8.—The changes are consequential upon our changes in clause 5.

Clause 10.—In taking sub-clause (3) as a proviso to sub-clause (1) we are actuated mainly by drafting considerations, though we have brought out more clearly that in disputes in public utility services references under this clause should be the normal procedure.

Clause 11.—We think that the work of conciliation officers should not be too formal, so we omit them from the scope of sub-clause (3) adding a new sub-clause (4) on the lines of the existing provision in section 18A(3) of the 1929 Act. We see no reason why the parties should not in all cases pay their own costs in proceedings before Tribunals, so we omit the original sub-clauses (4) and (5) of the Bill. We do however consider that Courts and Tribunals should be able to invoke the aid of expert assessors should they feel the necessity and the parties agree, and we insert a sub-clause (5) accordingly.

Clause 12.—With the informality we contemplate in the work of conciliation officers, we do not think that they will be adequately qualified to arrive at "findings" or make recommendations. We have amended the clause accordingly. The other changes in this clause are formal.

Clause 13.—Our changes are formal.

Clause 14.—We think that for normal cases a time for proceedings before a Court should be set.

Clause 15.—We cannot accept the principle of the Bill that Government can reject or modify as it thinks fit an award. We appreciate that when Government is itself a party, public grounds may make an award impossible of acceptance. We therefore propose that where Government cannot accept the award in such cases, the award should be referred to the Legislature.

Clause 17.—We think that it should be secured that publication of reports and awards should not be unduly delayed.

Clause 18.—Our changes are formal.

Clause 19.—In addition to some formal changes, we consider that provision should be made for the shortening of the period of operation of an award where circumstances on which the award was based have changed materially.

Clause 20.—Our amendment is consequential upon the changes in clause 15.

Clause 21.—A formal insertion has been made.

Clause 22.—In sub-clauses (1) and (2), the references to one month in (a) and to 24 days in (d) were from the practical viewpoint inconsistent : we have therefore proposed some widening of the interval of time involved. In sub-clause (3) we consider that reciprocal provision should be made.

Clause 23.—We think that the period of 14 days after the end of conciliation proceedings can be halved for the purposes of this section.

Clause 24.—We give reciprocal effect to sub-clause (5) and make other formal changes.

Clause 26.—In recasting the penal provisions of the 1929 Act the Bill does not give effect to the proviso to sub-section (1) of section 17. We supply this omission.

Clause 30.—We think that the penalty proposed in the Bill is too lenient.

Clause 31.—A breach of section 33 is not expressly provided for in the Bill, and we consider that the penalty provided by this residuary clause too lenient, we therefore add a separate sub-clause covering clause 33 in this clause.

Clause 33.—We make a drafting clarification.

Clause 36.—We add a reciprocal provision to sub-clause (1), and we see no reason for attaching the Bill's qualifications to the appearance of legal practitioners before Courts and Tribunals.

Clause 38.—We propose that rules should be made after previous publication. With this provision sub-clause (4) becomes unnecessary, as section 23, including clause (5) thereof, is attracted.

Clause 39.—We consider that as the clause appears in the Bill, it allows excessive powers of delegation. We have considered all the powers of Government under the Bill, and think that it is only the power under clause 3 which may usefully be delegated.

The Schedule.—This has been added for the reason given in our comments above under clause 2.

2. The Bill was published in the *Gazette of India*, Part V, dated the 2nd November, 1946.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

JOGENDRA NATH MANDAL.

*JAGJIVAN RAM.

*N. M. JOSHI.

*S. GURUSWAMI.

*A. C. INSKIP.

*COWASJEE JEHANGIR.

N. G. RANGA.

T. V. Satakopachari.

*D. P. KARMARKAR.

*VADILAL LALLUBHAI.

SATYAPRIYA BANERJEE.

B. S. HIRAY.

*SHAH ABDUL HAMID.

MUHAMMAD RAHMAT-ULLAH.

*S. C. JOSHI.

*P. J. GRIFFITHS.

*MANIBEN KARA.

NEW DELHI,

The 3rd February, 1947.

*Subject to a minute of dissent.

MINUTES OF DISSENT

I

We have signed the Report subject to this minute of dissent in which we are compelled to record our disagreement on the following two points:—

(1) *Clause 15 (2).*—There may be cases where on public grounds it may not be possible for Government to accept the whole or part of the award of the Tribunal. In such cases, in our opinion, Government should have the power, subject to the approval of the Legislative Assembly to modify or reject the award. This power should be a general power and not confined only to cases where Government is itself a party to the dispute.

(2) *Clause 19 (3).*—While we agree with the Committee that the period of operation of an award should be shortened, where the circumstances on which it was based have materially changed, we feel that the appropriate Government should have the authority either on its own motion, or on application of any party bound by the award, to decide whether there is case for reference to the Tribunal. It is only when the Government is so satisfied that it should refer the award to a tribunal for final decision.

JAGJIVAN RAM.

S. C. JOSHI.

D. P. KARMARKAR.

SHAH ABDUL HAMID.

NEW DELHI,

The 3rd February 1947.

II

The clauses dealing with the principles of the Bill have remained unmodified after their consideration by the Select Committee. There is, therefore, no need for us to modify our attitude of opposition to these clauses and towards the Bill as a whole. We shall, however, make the following comments on the clauses of the Bill.

Clause 2 (n).—We would define a public utility as a service the deprivation of which will cause injury or danger to human life and which is maintained by the Central or a Provincial Government or a Municipality or a District Board or any other Statutory Local Authority and includes (1) undertakings which supply light, water, medical relief or food to the public and a system of conservancy or sanitation or medical relief.

Clause 2 (n) (i).—The definition adopted by the Select Committee is too wide. It includes even a privately owned and managed railway. In 1919 Act the railway to be included in the public utility had to be notified by Government as a public utility.

Clause 2 (n) (iii).—We don't approve of privately owned and managed telephone service being included with Posts and Telegraphs.

Clause 2 (n) (vi).—We are against extending the scope of public utility by means of sub-section (vi) of clause 2 (n). If the sub-clause is to be retained we are against "public interest" being included among the grounds on which an industry is to be declared public utility. Public emergency should be the only justification for extending the scope of the definition of Public Utility.

In the definition of "strike" we would restrict its scope by providing that only when cessation of work is in consequence of an industrial dispute, it should be called a 'strike'.

Clause 3.—In clause 3 we would provide that workmen's representative on the Works Committee shall be elected only by the trade union where a trade union exists.

Clause 7.—We would provide that every member of a Tribunal shall receive a salary equal to that of a High Court Judge.

Clause 10 (1).—We would restrict the reference of a dispute to a Tribunal only to the cases where both the parties agree to the reference.

In the Proviso to clause 10(1) we would not permit Government to escape its obligations to make reference to a Tribunal on the ground of 'inexpediency'.

Clause 10 (3).—We would omit sub-clause (3) of clause 10. If strikes are begun in a legal manner there is no justification for making them illegal on the ground that Government has referred the dispute to a conciliation machinery. If the Legislature does not accept our proposal to omit the clause we would seek to modify the sub-clause restricting its operation only to those cases where strikes had taken place without notice.

Clause 12 (6).—We would substitute 'week' for 'fourteen days' as the period within which the Conciliation Officer must make a Report.

Clause 13 (5).—We would substitute 'a fortnight' for 'two months' as the period within which the Board must make its report. In the Proviso to clause 13(5) we would substitute 'fortnight' for 'two months'. The proceedings before the Board need not be very formal and not take a long time. Moreover long duration of these proceedings will sap the faith of the workers in the usefulness of conciliation.

Clause 14.—One month's period for an enquiry by a Court should be enough. Six months is too long and workers will not submit to such a delay.

Clause 15.—We are opposed to the Proviso to sub-clause (2) of clause 15. The workers having gone through the agonising delay of indefinite period, will not agree to the Government themselves not accepting the award of their Tribunal.

Clause 17.—A fortnight's period for publication of the Report should be sufficient.

Clause 19.—If the parties themselves do not fix a minimum period for a voluntary settlement we do not understand why the legislation should force on them a minimum period. One month's period of notice for the termination of a settlement should be enough.

Clause 19 (3).—We would like that the Government should be under an obligation to refer to the Tribunal the question of an earlier termination of the settlement on the application of any one of the parties.

Clause 23.—The Bill is providing for conciliation and adjudication proceedings which can be extremely long and protracted especially the proceedings before a Tribunal which are of unlimited duration. During these long period some other grievances will arise which are not the subjects of the conciliation and adjudication proceedings but workers will not be able legally to resort to a strike even though Government may not take any action for conciliation and adjudication on these fresh grievances. The protracted nature of the proceedings reduces the value and usefulness of conciliation in the eyes of the workers who would prefer to take their chance of getting redress even by an illegal strike. We are, therefore, opposed to this clause.

Clause 24 (1) (i).—We are opposed to a mere "declaration" of a strike being made illegal.

Clause 24 (1) (iii).—We are opposed to sub-section (iii) of sub-clause (1) of clause 24.

Clause 25.—We are against clause 25 which makes it a crime of contributing funds towards a strike especially if the contributor gives money even without knowing that the strike is illegal.

Clause 26 (1).—We would not impose a penalty upon an ordinary workman who merely joins a strike of any kind whether it is in consequence of a purely industrial dispute or otherwise and so would omit the words "which is not in furtherance of an industrial dispute". The fine of rupees fifty on ordinary workman is too heavy and should not exceed rupees five and we would reduce the imprisonment to one week.

Clause 27.—We would in the case of representatives of workers, reduce the imprisonment to one month and the fine to rupees fifty.

Clause 28.—We would impose penalty only on those who knowingly break the law by contributing funds and we would reduce the penalty to a fortnight's imprisonment and a fine of Rs. 10.

Clause 29.—We are opposed to clause 29 being made applicable to workers. The clause makes a civil wrong committed even by an individual, a crime. By this clause we are practically revising the old indenture system of re-enacting the old workman's Breach of Contract Act. Such legislation will also be a breach of an I.L.O. Convention prohibiting breach of contract of service being made a criminal offence. We wonder whether the Government or the majority of the Select Committee realise the extent of the reactionary nature of their proposal.

Schedule.—We would omit from the Schedule 'Coal', 'Textile', and 'Iron and Steel'.

N. M. JOSHI.
MANIBEN KARA.
S. GURUSWAMI.

NEW DELHI,

The 3rd February, 1947.

III

Although we consider that the Bill is in many ways a useful measure there are certain provisions in it which we regard as unsound and with respect to which we reserve the right to move amendments when the Bill next comes before the Legislative Assembly.

1. *Clause 3.*—We disagree with this clause which makes the establishment of works committees obligatory. We doubt whether such committees are suited to the present state of labour in this country and in any case we consider that they could only be of value if established by voluntary agreement between employer and employee.

2. *Clause 15.*—We do not consider that in the general case awards of tribunals should be binding. In our view it is right that conciliation proceedings should be made compulsory but if they fail, employers and employees must have the right to fight out their dispute. We should be prepared to agree to binding awards only in public utility concerns.

3. *Clause 23.*—In our view, notice of a strike should be required in all cases and not only in public utility concerns. It seems to us meaningless to make conciliation proceedings compulsory if notice of strikes is not required.

4. *Clause 2.*—We do not consider that the Act in its present form should apply to plantations—a simpler measure is required there and could suitably be provided in the plantation code which, we understand, is now contemplated. We consider, therefore, that plantations should be excluded from the definition of industry and industrial dispute in sub-clause 'j' and 'k' of clause 2 of the Bill.

P. J. GRIFFITHS.

A. C. INSKIP.

NEW DELHI,

The 3rd February 1947.

IV

Clause 2 (j).—I consider the definition of "industry" too wide, in as much as the words "business, trade" should be omitted, or at least restricted to "business, trade" employing a minimum number of employees.

Clause 10. (1)—Government should be restricted in their power to refer a dispute to a Tribunal for adjudication in all cases other than disputes in public utility services or in cases of grave national emergency.

Clause 10 (3).—"Shall" should be substituted for "may".

Clause 24.—There should be a provision similar to the one in the Defence of India Rules *viz.*, that in the case of every strike or lock-out, a 15 days' notice must be given.

SIR COWASJEE JEHANGIR.

NEW DELHI,

The 3rd February, 1947.

V

Whilst I generally support the main object of the Bill, namely, promoting industrial peace in the country, I find it difficult to agree with my other colleagues on the Select Committee particularly in respect of those provisions of the Bill which seek to make a distinction between the public utility services and other industries. True, a few public utility services have been in the public eye due to recent strikes therein either threatened or actual. But that alone does not offer a sound criterion to place them on a different footing than industries. On the contrary I feel that the conditions that are sought to be placed on public utility services should be uniformly imposed on all industries without any distinction. At a time when conditions of scarcity prevail all round and all over the country, maintenance of industrial peace becomes important and necessary in all industries equally and it is unwise to attach more importance to it in some industries and less importance in others, at least for the present. I therefore feel that the Bill should be so modified as to place all industries on the same and uniform footing.

In respect of clause 10 (3) as amended by the Select Committee where it is provided that when an industrial dispute has been referred to a Board or a Tribunal, the appropriate Government *may* by order prohibit the continuance of any strike or lock-out in connection with such dispute, etc. I consider it meaningless that when once the Government intervenes in the matter and refers the dispute to a Board or a Tribunal, the strike or lock-out should continue at the same time except when the Government prohibits it at its own option. It should be rather obligatory on the Government to prohibit the continuance of a strike or lock-out when the dispute has been referred to a Board or Tribunal. The sub-clause should therefore be modified accordingly.

NEW DELHI;

VADILAL LALLUBHAI.

The 3rd February, 1947.

L. A. BILL No. 40 OF 1946.

(BILL AS AMENDED BY THE SELECT COMMITTEE)

(*Words underlined or sidelined indicate the amendments suggested by the Committee; asterisks indicate omissions.*)

A
BILL

to make provision for the investigation and settlement of industrial disputes, and for certain other purposes.

WHEREAS It is expedient to make provision for the investigation and settlement of industrial disputes, and for certain other purposes hereinafter appearing;

It is hereby enacted as follows:—

CHAPTER I
Preliminary

1. (1) This Act may be called the Industrial Disputes Act, 1947. Short title, extent and commence-
ment.
- (2) It extends to the whole of British India.
- (3) It shall come into force on the first day of April, 1947.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “appropriate Government” means—

(i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, by the Federal Railway Authority or by a railway company operating a Federal Railway or in relation to an industrial dispute concerning a mine, oilfield, or a major port, the Central Government, and

(ii) in relation to any other industrial dispute, the Provincial Government;

(b) “award” means an interim or final determination by an Industrial Tribunal of any industrial dispute or of any question relating thereto;

(c) “Board” means a Board of Conciliation constituted under this Act;

(d) “conciliation officer” means a conciliation officer appointed under this Act;

(e) “conciliation proceeding” means any proceeding held by a conciliation officer or Board under this Act;

(f) “Court” means a Court of Inquiry constituted under this Act;

(g) “employer” means—

(i) in relation to an industry carried on by or under the authority of any department of a Government in British India, the authority prescribed in this behalf, or where no authority is prescribed, the head of the department;

(ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority;

(h) ***“Federal Railway”*** has the same meaning as in the Government of India Act, 1935;

2. Geo 5, c. 2

(i) a person shall be deemed to be “independent” for the purpose of his appointment as the chairman or other member of a Board, Court or Tribunal, if he is unconnected with the industrial dispute referred to such Board, Court or Tribunal or with any industry directly affected by such dispute;

(j) “industry” means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen;

(k) “industrial dispute” means any dispute or difference between employers and employers, or between workmen and employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

(l) "look-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, * * *

(m) "prescribed" means prescribed by rules made under this Act;

(n) "public utility service" means—

(i) any railway service;

(ii) any section of an industrial establishment, on the working of which the safety of the establishment or the workmen employed therein depends;

(iii) any postal, telegraph or telephone service;

(iv) any industry which supplies power, light or water to the public;

(v) * * * any system of public conservancy or sanitation;

(vi) any industry specified in the Schedule which the appropriate Government may, if satisfied that public emergency or public interest so requires, by notification in the official Gazette declare to be a public utility service for the purposes of this Act, for such period, if any, as may be specified in the notification;

(o) "railway company" means a railway company of 1890 as defined in section 3 of the Indian Railways Act, 1890;

(p) "settlement" means a settlement arrived at in the course of a conciliation proceeding;

(q) "strike" means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment;

(r) "Tribunal" means an Industrial Tribunal constituted under this Act;

(s) "workman" means any person employed (including an apprentice) in any industry to do any skilled or unskilled manual or clerical work for hire or reward and includes, for the purposes of any proceedings under this Act in relation to an industrial dispute, a workman discharged during that dispute, but does not include any person employed in the naval, military or air service of the Crown.

CHAPTER II

Authorities under this Act

3. (1) In the case of any industrial establishment Works Committee in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee

consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act 1926.

X I of 1926

(2) It shall be the duty of the Works Committee ***to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

Conciliation officers

4. (1) The appropriate Government may, by notification in the official Gazette, appoint such number of persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

Boards of Conciliation

5. (1) The appropriate Government may as occasion arises by notification in the official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a chairman and two or four other members, *** as the appropriate Government thinks fit.

(3) *** The chairman shall be an independent person and the other members shall be *** persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party :

Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number :

Provided that if the appropriate Government notifies the Board that the services of the chairman or of any other member *** have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

6. (1) The appropriate Government may as occasion arises by notification in the official Gazette constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

(2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that, if the appropriate Government notifies the Court that the services of the chairman have ceased to be available, the Court shall not act until a new chairman has been appointed.

7. (1) The appropriate Government may constitute one or more Industrial Tribunals for the adjudication of industrial disputes in accordance with the provisions of this Act.

(2) A Tribunal shall consist of such number of members as the appropriate Government thinks fit. Where the Tribunal consists of two or more members, one of them shall be appointed as the chairman.

(3) Every member of the Tribunal shall be an independent person who is or has been a Judge of a High Court or who possesses qualifications required for appointment as a Judge of a High Court.

8. (1) If the services of the chairman of a Board or of the chairman or other member of a Court or Tribunal cease to be available at any time, the appropriate Government shall, in the case of a chairman, and may in the case of any other member, appoint another independent person to fill the vacancy, and the proceedings shall be continued before the Board, Court or Tribunal so reconstituted.

(2) Where a Court or Tribunal consists of one person only and his services cease to be available the appropriate Government shall appoint another independent person in his place, and the proceedings shall be continued before the person so appointed.

(3) Where the services of any member of a Board other than the chairman have ceased to be available, the appropriate Government shall appoint in the manner specified in sub-section (3) of section 5 another person to take his place, and the proceedings shall be continued before the Board so reconstituted.

9. No order of the appropriate Government appointing any person as a member of a Board, Court or Tribunal shall be called in question in any manner.

CHAPTER III

Reference of Disputes to Boards, Courts or Tribunal

Reference of disputes to Boards, Courts or Tribunals

10. (1) If any industrial dispute exists or is apprehended, the appropriate Government may, by order in writing,—

(a) refer the dispute to a Board for promoting a settlement thereof ; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry ; or

(c) refer the dispute to a Tribunal for adjudication :

Provided that where the dispute relates to a public utility service and a notice under section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make a reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced.

(2) Where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court or Tribunal, the appropriate Government, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly.

* * * * *

(3) Where an industrial dispute has been referred to a Board or Tribunal under this section, the appropriate Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

CHAPTER IV

Procedure, powers and duties of Authorities

Procedure and powers of conciliation officers, Boards Courts and Tribunals

11. (1) Conciliation officers, Boards, Courts and Tribunals shall, subject to the provisions of this Act, follow such procedure as may be prescribed.

(2) A conciliation officer or a member of a Board, Court or Tribunal may for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

(3) Every** Board, Court and Tribunal shall have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908, when trying a suit, ^{V of 15} in respect of the following matters, namely :—

(a) enforcing the attendance of any person and examining him on oath ;

(b) compelling the production of documents and material objects ;

(c) issuing commissions for the examination of witnesses;

(d) in respect of such other matters as may be prescribed;

and every inquiry or investigation by a ** Board, Court or Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

(4) A conciliation officer may call for and inspect any document which he has ground for considering to be relevant to the industrial dispute.

(5) With the consent of all parties to the dispute, a Court or Tribunal may, if it so thinks fit, appoint one or more persons as assessors to advise it in the proceedings.

(6) Every conciliation officer and every member of a Board, Court or Tribunal shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

12. (1) Where any industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under section 22 has been given, shall, hold conciliation proceedings in the prescribed manner.

Duties of concilia-
tion officers

(2) ***The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings * * * the conciliation officer shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(4) If no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ** ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, ** and the reasons on account of which, in his opinion, a settlement could not be arrived at.

(5) If, on a consideration of the report referred to in sub-section (4), the appropriate Government is satisfied that there is a case for reference to a Board or Tribunal, it may make such reference. Where the appropriate Government does not make such a reference, it shall record and communicate to the parties concerned its reasons therefor.

(6) A report under this section shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.

Duties of Board

13. (1) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) If, on the receipt of a report under sub-section (3) in respect of a dispute relating to a public utility service, the appropriate Government does not make a reference to a Tribunal under section 10, it shall record and communicate to the parties concerned its reasons therefor.

(5) The Board shall submit its report under this section within two months of the date of the notice under section 22 or within such shorter period as may be fixed by the appropriate Government:

Provided that the appropriate Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate :

Provided further that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.

14. A Court shall inquire into the matters referred to it and report thereon to the appropriate Government ordinarily within a period of six months from the commencement of its inquiry.

Court of Appeals

15. (1) Where an industrial dispute has been referred to a Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as practicable on the conclusion thereof, submit its award to the appropriate Government.

Court of Tribunals

(2) On receipt of such award, the appropriate Government shall by order in writing declare the award to be binding : * * * * *

Provided that where the appropriate Government is a party to the dispute and in its opinion it would be inexpedient on public grounds to give effect to the whole or any part of the award, it shall on the first available opportunity lay the award together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the Province, or where the appropriate Government is the Central Government, before the Central Legislative Assembly, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the award ; and the Legislative Assembly may, by its resolution, confirm, modify, or reject the award.

(3) On the passing of a resolution under the proviso to sub-section (2), unless the award is rejected thereby, the appropriate Government shall by order in writing declare the award as confirmed or modified by the resolution, as the case may be, to be binding.

(4) Save as provided in the proviso to sub-section (3) of section 19, an award declared to be binding under this section shall not be called in question in any manner.

16. The report of a Board or Court and the award of a Tribunal shall be in writing and shall be signed by all the members of the Board, Court or Tribunal, as the case may be :

Report or Award

Provided that nothing in this section shall be deemed to prevent any member of the Board, Court or Tribunal from recording a minute of dissent from a report or award from any recommendation made therein.

17. The report of a Board or Court and the award of a Tribunal, together with any minute of dissent recorded therewith, shall, within a period of one month from the date of its receipt by the appropriate Government, be published in such manner as it thinks fit.

Publication of Reports and Awards

**Persons on whom
settlements and
awards are bind-
ing**

18. A settlement arrived at in the course of conciliation proceedings under this Act or an award which is declared by the appropriate Government to be binding under sub-section (2) of section 15 shall be binding on—

(a) all parties to the industrial dispute;

(b) all other parties ~~**summoned to appear in the proceedings as parties to the dispute, unless the ***Board or Tribunal, as the case may be, records the opinion that they were so summoned without proper cause :~~

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all others who subsequently become employed in that establishment or part.

**Period of operation
of settlements
and awards**

19. (1) A settlement arrived at in the course of a conciliation proceeding under this Act shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of one year, and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of three months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

(3) An award declared by the appropriate Government*** under section 15 to be binding shall come into operation on such date as may be specified by the appropriate Government and shall remain in operation for such period, not exceeding one year, as may be fixed by that Government:

Provided that if any party bound by the award is of opinion that there has been a material change in the circumstances on which the award was based, it may apply to the appropriate Government for a reference of the award to a Tribunal, and on receipt of such application or if the appropriate Government is itself of such opinion as aforesaid, the appropriate Government shall

refer the award to a Tribunal for a decision whether or not the award should, by reason of such change, cease to be in operation before the expiry of the period so fixed and the period of operation of the award shall be determined by the decision of the Tribunal on such reference.

20. (1) A conciliation proceeding shall be deemed to have commenced on the date on which a notice of strike or lock-out under section 22 is received by the conciliation officer or on the date of the order referring the dispute to a Board, as the case may be.

(2) A conciliation proceeding shall be deemed to have concluded—

(a) where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the dispute;

(b) where no settlement is arrived at, when the report of the conciliation officer is received by the appropriate Government or when the report of the Board is published under section 17, as the case may be, or

(c) when a reference is made to a Court or Tribunal under section 10 during the pendency of conciliation proceedings.

(3) Proceedings before a Tribunal shall be deemed to have commenced on the date of the reference of a dispute for adjudication and such proceedings shall be deemed to have concluded when the award is published by the appropriate Government under section 17, or where an award has been laid before the Legislative Assembly under the proviso to sub-section (2) of section 15, when the resolution of the Legislative Assembly thereon is passed.

21. There shall not be included in any report or award under this Act any information obtained by a conciliation officer, Board, Court or Tribunal in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such officer, Board, Court or Tribunal, if the trade union, person, firm or company, in question has made a request in writing to the conciliation officer, Board, Court or Tribunal, as the case may be, that such information shall be treated as confidential; nor shall such conciliation officer or any individual member of the Board, Court or Tribunal or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be:

Provided that nothing contained in this section shall apply to a disclosure of any such information for the purposes of a prosecution under section 193 of 1860 of the Indian Penal Code.

commencement
and conclusion of
proceedings

certain matters
to be kept con-
fidential

CHAPTER V

Strikes and lock-outs

Prohibition of strikes and lock-outs.

22. (1) No person employed in a public utility service shall go on strike in breach of contract—

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking ; or

(b) within fourteen days of giving such notice ; or

(c) before the expiry of the date of strike specified in any such notice as aforesaid ; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock-out any of his workmen—

(a) without giving them notice of lock-out as hereinafter provided, within six weeks before locking out ; or

(b) within fourteen days of giving such notice; or

(c) before the expiry of the date of lock-out specified in any such notice as aforesaid ; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe the number of such notices received or given on that day.

23. No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out—

(a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;

(b) during the pendency of proceedings before a Tribunal and two months after the conclusion of such proceedings; or

(c) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

24. (1) A strike or a lock-out shall be illegal if—

(i) it is commenced or declared in contravention of section 22 or section 23; or

(ii) it is continued in contravention of an order made under sub-section (3) of section 10; or

(iii) it has any object other than, or in addition to, the furtherance of an industrial dispute within the industry in which the workmen going on strike or the employers locking out are engaged and the strike or lock-out is designed or calculated to inflict severe,* general and prolonged hardship upon the community and thereby to compel any Government in British India*** to take or abstain from taking any particular course of action.

(2) For the purposes of this section—

(a) an industrial dispute shall not be deemed to be within an industry unless it is a dispute between employers and workmen, or between workmen and workmen in that industry, which is connected with the employment or non-employment or the terms of employment, or with the conditions of labour, of persons in that industry;

(b) workmen shall be deemed to be within the same industry if their wages or conditions of employment are determined in accordance with agreements made with the same employer or group of employers.

(3) A strike or lock-out shall not be deemed to be calculated to compel any Government in British India, **unless such compulsion might reasonably be expected as a consequence thereof.

(4) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, or Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10.

Illegal strikes and
lock-outs

(5) A lock-out declared*** in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

Prohibition of financial aid to illegal strikes and lock-outs

25. No person shall expend or apply any money in direct furtherance or support of any illegal strike or lock-out.

CHAPTER VI

Penalties

Penalty for illegal strikes and lock-outs

26. (1) Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both :

Provided that no workman shall be deemed to have committed an offence under this sub-section by reason only of his having joined an illegal strike which is not in furtherance of an industrial dispute.

(2) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Penalty for instigation, etc.

27. Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for giving financial aid to illegal strikes and lock-outs

28. Any person who expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for breach of settlement or award

29. If any person commits a breach of any term of any settlement or award which is binding on him under this Act, he shall on his first conviction therefore be punishable with fine which may extend to two hundred rupees and in the event of a second or subsequent conviction, with fine which may extend to five hundred rupees.

Penalty for disclosing confidential information

30. Any person who wilfully discloses any such information as is referred to in section 21 in contravention of the provisions of that section shall, on complaint made by or on behalf of the trade union or individual business affected, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for other offences

31. (7) Any employer who contravenes the provisions of section 33 shall be punishable with imprisonment

for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

CHAPTER VII

Miscellaneous

32. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

33. No employer shall during the pendency of any conciliation proceedings or proceedings before a Tribunal, in respect of any industrial dispute, alter to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings, nor, save with the express permission in writing of the conciliation officer, Board or Tribunal, as the case may be, shall he during the pendency of such proceedings, discharge, dismiss, or otherwise punish any such workmen, except for misconduct not connected with the dispute. * * *

34. (1) No Court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government.

(2) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

35. (1) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or

exemption secured by this section, and in any such proceeding the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

Representatives of parties

36. (1) A workman who is a party to an industrial dispute shall be entitled to be represented in any proceedings under this Act by an officer of a registered trade union, and any employer who is a party to an industrial dispute shall be entitled to be represented in any such proceedings by an officer of an association of employers.

(2) No party to an industrial dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act.

(3) A party to an industrial dispute may** be represented by a legal practitioner in any proceedings before a Court or Tribunal.

Protection of action taken under the Act

37. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Power to make rules

38. (1) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the powers and procedure of conciliation officers, Boards, Courts and Tribunals including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation, the number of members necessary to form a quorum and the manner of submission of reports and awards;

(b) the constitution and functions of and the filling of vacancies in Works Committees, and the procedure to be followed by such Committees in the discharge of their duties;

(c) the allowances admissible to members of Courts, Boards, and Tribunals and to assessors and witnesses;

(d) the ministerial establishment which may be allotted to a Court, Board or Tribunal and the salaries and allowances payable to members of such establishments;

(e) the manner in which and the persons by and to whom notice of strike or lock-out may be given and the manner in which such notices shall be communicated;

(f) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court or Tribunal;

(g) any other matter which is to be or may be prescribed.

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

* * *

39. The appropriate Government may by order Delegation of direct that its power under section 3 shall, in such power circumstances and under such conditions, if any, as may be specified in the order, be exercised by any officer or authority subordinate to that Government.

40. The Trade Disputes Act, 1929, is hereby repealed. Repeal of Act VII of 1929

THE SCHEDULE

Industries which may be declared to be public utility services under sub-clause (vi) of clause (n) of section 2.

1. Transport (other than railways) for the carriage of passengers or goods, by land, water or air.
2. Coal.
3. Cotton textiles.
4. Foodstuffs.
5. Iron and steel.

The following Report of the Select Committee on the Bill to regulate certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion, was presented to the Legislative Assembly on the 3rd February, 1947:—

We, the undersigned, members of the Select Committee to which the Bill to regulate certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Transactions in foreign exchange are at present regulated under the Emergency Provisions (Continuance) Ordinance, 1946. Under the relevant provisions continued by that Ordinance exemptions in respect of transactions within the so-called "sterling area" have been given by means of a definition of that expression. A similar method has been adopted in the Exchange Control Act, 1946, recently enacted by Parliament, in which a Schedule of "scheduled territories" has been included. The present Bill contains no such Schedule, but has provision for the making of the necessary exemptions by executive order. We considered the question of recasting the Bill to introduce such a Schedule but have decided against that course.

Throughout the Bill we make one formal change. In the Bill as introduced it referred to "general or special permission" in some places and merely to "permission" in others. For the sake of uniformity we have adopted the former expression in all cases, unless the context clearly refers to an *ad hoc* permission. We also propose some formal changes in addition to those on which we comment below.

Clause 1.—While we appreciate that the regulation of dealings in foreign exchange will be necessary for some years to come, we do not consider that the Bill should purport to be a permanent measure. We therefore propose a duration clause of five years in the first instance, giving power to Government to extend that period by a further period not exceeding three years.

Clause 2.—We amend the definition of gold to make it clear that the Bill will extend to gold in any form.

Clause 5.—This Bill will have certain personal extra-territorial application, and we think that the persons concerned who are earning a livelihood in a foreign country should be freed from even a technical liability under the Bill when they spend foreign currency which they have earned abroad.

Clause 8.—The mischief of sub-clause (2) may be avoided if the export of jewellery and precious stones is not controlled, and we propose an addition to the sub-clause accordingly.

Clause 11.—We consider that the powers taken in the Bill are rather too wide and we propose limiting them to first dealings in imported gold and silver.

Clause 16.—Government's powers under this clause should be expressed as being exercised for the purpose of strengthening its *exchange* position rather than its *financial* position generally, and we propose an amendment accordingly.

Clause 18 (2).—We consider that the regulation of loans to foreign companies should be extended to cover loans to foreign individuals.

Clause 19 (3).—We think that powers of entry, search and seizure should not be conferred on police officers below the rank of sub-inspector.

Clause 21.—We insert a provision to make it clear that the restrictions on negotiability which may be imposed under the Bill do not affect the status of Bills of exchange or promissory notes as such. Similar provision occurs in the Act of Parliament.

Clause 22.—We consider the concluding words too drastic inasmuch as they cover also the inadvertent and *bona fide* error, and propose a modification accordingly.

Clause 23.—To sub-clause (1) we give power to the Courts to order the confiscation of property in respect of which offences have been committed. If the burden of proof is under clause 24 to be thrown on the accused, we consider that it should be made absolutely clear that before a prosecution is launched the accused should have been given an opportunity of showing that he had the required permission. We add a proviso in this sense to sub-clause (2). We also add the normal provision dealing with offences committed by corporate bodies.

2. The Bill was published in the Gazette of India, Part V, dated 9th November, 1946.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

JOGENDRA NATH MANDAL.
LIAQUAT ALI KHAN.
K. G. AMBEGAOKAR.
H. D. CAYLEY.
ZIAUDDIN AHMAD.
MOHAMMAD YAMIN KHAN.
GEOFFREY W. TYSON.
P. J. GRIFFITHS.
*COWASJEE JEHANGIR.
MANU SUBEDAR.
P. B. GOLE.
S. VENKATASUBBA REDDIAR.
D. P. KARMARKAR.
SATYA NARAYAN SINHA.
N. G. RANGA.

NEW DELHI;
The 3rd February 1947

MINUTE OF DISSENT

In the Statement of Objects and Reasons it was explained that the Bill embodies the financial provisions of the Defence of India Rules relating to exchange control with certain modifications and amendments which experience over the past six years has shown to be desirable in the interests of clarity and effectiveness. But it will be noticed that the Bill makes a definite change in the Defence of India Rules in as much as the so-called sterling area has been included in the Bill while it was expressly excluded from the Rules. As explained in the second para. of the Select Committee's Report the Select Committee considered the advisability of excluding the sterling area by providing for a Schedule of "scheduled territories". If this had been done, the Bill would have correctly represented the present intentions of Government. The Bill as it stands does not do so. Along with the Schedule there would have been a provision whereby Government would have had the power to change the schedule, without notice, whenever they thought the interest of the country so demanded. As the Bill stands, the intentions of Government will have to be carried out by executive order. I do not consider this a satisfactory method of legislation.

NEW DELHI,
The 3rd February, 1947. }

COWASJEE JEHANGIR.

L. A. BILL No. 53 OF 1946.

A Bill to regulate certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion.

WHEREAS it is expedient in the economic and financial interests of India to provide for the regulation of certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion;

It is hereby enacted as follows:—

1. (1) This Act may be called the Foreign Exchange Regulation Act, 1947. | Short title, extent, commencement and duration.

(2) It extends to the whole of British India, and applies also to British subjects and servants of the Crown in any part of India, and to British subjects who are domiciled in any part of India wherever they may be

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

(4) It shall remain in force for five years only, but the Central Government may, by notification in the official Gazette, direct that it shall remain in force for a further period not exceeding three years.

2. In this Act, unless there is anything repugnant in the subject or context,— Interpretation.

(a) "authorised dealer" means a person for the time being authorised under section 3 to deal in foreign exchange;

(b) "currency" includes all coins, currency notes, bank notes, postal notes, money orders, cheques, drafts, traveller's cheques, letters of credit, bills of exchange and promissory notes;

(c) "foreign currency" means any currency other than Indian currency;

(d) "foreign exchange" means foreign currency and includes all deposits, credits and balances payable in any foreign currency, and any drafts, travellers' cheques, letters of credit and bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency;

(e) "foreign security" means any security issued elsewhere than in India, and any security the principal of or interest on which is payable in any foreign currency or elsewhere than in India;

(f) "gold" includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not;

(g) "Indian currency" means currency which is expressed or drawn in Indian rupees;

(h) "owner", in relation to any security, includes any person who has power to sell or transfer the security, or who has the custody thereof or who receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon, and who has any interest therein, and in a case where any security is held on any trust or dividends or interest thereon are paid into a trust fund, also includes any trustee or any person entitled to enforce the performance of the trust or to revoke or vary, with or without the consent of any other person, the trust or any terms thereof, or to control the investment of the trust moneys;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "Reserve Bank" means the Reserve Bank of India;

(k) "security" means shares, stocks, bonds, debentures, debenture stock and Government securities, as defined in the Indian Securities Act, 1920, deposit receipts in respect of deposits of securities, and units or sub-units of unit trusts, but does not include bills of exchange or promissory notes other than Government promissory notes;

(l) "silver" means silver bullion or ingot, silver sheets and plates which have undergone no process of manufacture subsequent to rolling and uncurrent silver coin which is not legal tender in India or elsewhere;

(m) "transfer" includes, in relation to any security, transfer by way of loan or security.

Authorised
dealers in
foreign
exchange.

3. (1) The Reserve Bank may, on application made to it in this behalf, authorise any person to deal in foreign exchange.

(2) An authorisation under this section—

(i) may authorise dealings in all foreign currencies or may be restricted to authorising dealings in specified foreign currencies only;

(ii) may authorise transactions of all descriptions in foreign currencies or may be restricted to authorising specified transactions only;

(iii) may be granted to be effective for a specified period, or within specified amounts, and may in all cases be revoked for reasons appearing to it sufficient by the Reserve Bank.

(3) An authorised dealer shall in all his dealings in foreign exchange comply with such general or special directions or instructions as the Reserve Bank may from time to time think fit to give, and, except with the previous permission of the Reserve Bank, an authorised dealer shall not engage in any transaction involving any foreign exchange which is not in conformity with the terms of his authorisation under this section.

(4) An authorised dealer shall, before undertaking any transaction in foreign exchange on behalf of any person, require that person to make such declarations and to give such information as will reasonably satisfy him that the transaction will not involve, and is not designed for the purpose of, any contravention or evasion of the provisions of this Act or of any rules, directions or orders made thereunder, and where the said person refuses to comply with any such requirement or makes only unsatisfactory compliance therewith, the authorised dealer shall refuse to undertake the transaction and shall, if he has reason to believe that any such contravention or evasion as aforesaid is contemplated by the person, report the matter to the Reserve Bank.

4. (1) Except with the previous general or special permission of the Reserve Bank, no person other than an authorised dealer shall in British India, and no person resident in British India other than an authorised dealer shall outside British India, buy or borrow from, or sell or lend to, or exchange with, any person not being an authorised dealer, any foreign exchange.

Restrictions on dealing in foreign exchange.

(2) Except with the previous general or special permission of the Reserve Bank, no person whether an authorised dealer or otherwise, shall enter into any transaction which provides for the conversion of Indian currency into *foreign currency or foreign currency into Indian currency at rates of exchange other than the rates for the time being authorised by the Reserve Bank.

(3) Where any foreign exchange is acquired by any person other than an authorised dealer for any particular purpose, or where any person has been permitted conditionally to acquire foreign exchange, the said person shall not use the foreign exchange so acquired otherwise than for that purpose or, as the case may be, fail to comply with any condition to which the permission granted to him is subject, and where any foreign exchange so acquired cannot be so used or, as the case may be, the conditions cannot be complied with, the said person shall without delay sell the foreign exchange to an authorised dealer.

(4) Nothing in this section shall be deemed to prevent a person from buying from any post office, in accordance with any law or rules made thereunder for the time being in force, any foreign exchange in the form of postal orders or money orders.

Restrictions on payments.

5. (1) Save as may be provided in and in accordance with any general or special exemption from the provisions of this sub-section which may be granted conditionally or unconditionally by the Reserve Bank, no person in, or resident in, British India shall—

(a) make any payment to or for the credit of any person resident outside India;

(b) draw, issue or negotiate any bill of exchange or promissory note or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is **created or transferred in favour of any person resident outside India;

(c) make any payment to or for the credit of any person *** by order or on behalf of any person resident outside India;

(d) place any sum to the credit of any person resident outside India;

(e) make any payment to or for the credit of any person*** as consideration for or in association with—

(i) the receipt by any person of a payment or the acquisition by any person of property outside India;

(ii) the creation or transfer in favour of any person of a right whether actual or contingent to receive a payment or acquire property outside India;

(f) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is created or transferred in favour of any person as consideration for or in association with any matter referred to in clause (e).

(2) Nothing in sub-section (1) shall render unlawful—

(a) the making of any payment already authorised, either with foreign exchange obtained from an authorised dealer under section 4 or with foreign exchange retained by a person in pursuance of an authorisation granted by the Reserve Bank;

(b) the making of any payment with foreign exchange received by way of salary or payment for services not arising from business in, or anything done while in, India.

(3) Nothing in this section shall restrict the doing by any person of anything within the scope of any authorisation or exemption granted under this Act.

(4) For the purposes of this section, "security" also includes coupons or warrants representing dividends or interest and life or endowment insurance policies.

6. (1) Where an exemption from the provisions of section 5 is granted by the Reserve Bank in respect of payment of any sum to any person resident outside

India and the exemption is made subject to the condition that the payment is made to a blocked account—

(a) the payment shall be made to a blocked account in the name of that person in such manner as the Reserve Bank may by general or special order direct ; and

(b) the crediting of that sum to that account shall, to the extent of the sum credited, be a good discharge to the person making the payment.

(2) No sum standing at the credit of a blocked account shall be drawn on except in accordance with any general or special permission which may be granted conditionally or otherwise by the Reserve Bank.

(3) In this section “blocked account” means an account opened as a blocked account at any office or branch in British India of a bank authorised in this behalf by the Reserve Bank, or an account blocked, whether before or after the commencement of this Act, by order of the Reserve Bank.

7. (1) Where in the opinion of the Central Government it is necessary or expedient to regulate payments due to persons resident in any territory, the Central Government may, by notification in the official Gazette, direct that such payments or any class of such payments shall be made only into an account (hereinafter referred to as a special account) to be maintained for the purpose by the Reserve Bank or an authorised dealer specially authorised by the Reserve Bank in this behalf.

(2) The credit of a sum to a special account shall, to the extent of the sum credited, be a good discharge to the person making the payment :

Provided that where the liability of the person making the payment is to make the payment in foreign currency, the extent of the discharge shall be ascertained by converting the amount paid into that currency at such rate of exchange as is for the time being fixed or authorised by the Reserve Bank.

(3) The sum standing to the credit of any special account shall from time to time be applied—

(a) where any agreement is entered into between the Central Government and the Government of the territory to which the aforesaid notification relates for the regulation of payments between persons resident in British India and in that territory, in such manner as the Reserve Bank, having regard to the provisions of such agreement, may direct, or

(b) where no such agreement is entered into, for the purpose of paying wholly or partly, and in such order of preference and at such times as the Central Government may direct, debts due from the persons resident in the said territory to persons resident in British India or in such other territories as the Central Government may by order specify in this behalf.

**Restrictions
on import
and export
of certain
currency and
bullion.**

8. (1) The Central Government may, by notification in the official Gazette, order that, subject to such exemptions, if any, as may be contained in the notification, no person shall, except with the general or special permission of the Reserve Bank and on payment of the fee, if any, prescribed bring or send into British India any gold or silver or any currency notes or bank notes or coin whether Indian or foreign.

(2) No person shall, except with the general or special permission of the Reserve Bank or the written permission of a person authorised in this behalf by the Reserve Bank, take or send out of British India any gold, jewellery or precious stones, or Indian currency notes, bank notes or coin or foreign exchange other than foreign exchange obtained from an authorised dealer.

(3) The restrictions imposed by sub-sections (1) and (2) shall be deemed to have been imposed under section 19 of the Sea Customs Act, 1878, without prejudice to the provisions of section 23 of this Act, and all the provisions of that Act shall have effect accordingly.

**Acquisition
by Central
Government
of foreign
exchange.**

9. The Central Government may, by notification in the official Gazette, order every person in, or resident in, British India—

(a) who owns such foreign exchange as may be specified in the notification, to offer it, or cause it to be offered for sale to the Reserve Bank on behalf of the Central Government or to such person as the Reserve Bank may authorise for the purpose at such price as the Central Government may fix, being a price which is in the opinion of the Central Government not less than the market rate of the foreign exchange when it is offered for sale;

(b) who is entitled to assign any right to receive such foreign exchange as may be specified in the notification, to transfer that right to the Reserve Bank on behalf of the Central Government at such consideration as the Central Government may fix:

Provided that the Central Government may by the said notification or another order exempt any persons or class of persons from the operation of such order:

Provided further that nothing in this section shall apply to any foreign exchange acquired by a person from an authorised dealer and retained by him with the permission of the Reserve Bank for any purpose.

10. (1) No person who has a right to receive any foreign exchange or to receive from a person resident outside India a payment in rupees shall, except with the general or special permission of the Reserve Bank, do or refrain from doing any act with intent to secure—
 persons entitled to receive foreign exchange, etc.

(a) that the receipt by him of the whole or part of that foreign exchange or payment is delayed, or

(b) that the foreign exchange or payment ceases in whole or in part to be receivable by him.

(2) Where a person has failed to comply with the requirements of sub-section (1) in relation to any foreign exchange or payment in rupees, the Reserve Bank may give to him such directions as appear to be expedient for the purpose of securing the receipt of the foreign exchange or payment as the case may be.

11. The Central Government may, by notification Power to in the official Gazette, impose such conditions as it thinks necessary or expedient on the use or disposal uses, etc., of imported of or dealings in gold and silver prior to, or gold and at the time of, import into British India.

12. (1) The Central Government may, by notification Payment for in the official Gazette, prohibit the export of any goods exported or class of goods specified in the notification from goods. British India directly or indirectly to any place so specified unless a declaration supported by such evidence as may be prescribed or so specified, is furnished by the exporter to the prescribed authority that the amount representing the full export value of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

(2) Where any export of goods has been made to which a notification under sub-section (1) applies, no person entitled to sell, or procure the sale of, the said goods shall, except with the permission of the Reserve Bank, do or refrain from doing any act with intent to secure that—

(a) the sale of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade, or

(b) payment for the goods is made otherwise than in the prescribed manner or does not represent the full amount payable by the foreign buyer in respect of the goods, subject to such deductions, if any, as may be allowed by the Reserve Bank, or is delayed to such extent as aforesaid :

Provided that no proceedings in respect of any contravention of this sub-section shall be instituted unless the prescribed period has expired and payment for the goods representing the full amount as aforesaid has not been made in the prescribed manner.

(3) Where in relation to any such goods the said period has expired and the goods have not been sold and payment therefor has not been made as afore-

said, the Reserve Bank may give to any person entitled to sell the goods or to procure the sale thereof, such directions as appear to it to be expedient for the purpose of securing the sale of the goods and payment therefor as aforesaid, and without prejudice to the generality of the foregoing provision, may direct that the goods shall be assigned to the Central Government or to a person specified in the directions.

(4) Where any goods are assigned in accordance with sub-section (3), the Central Government shall pay to the person assigning them such sum in consideration of the net sum recovered by or on behalf of the Central Government in respect of the goods as may be determined by the Central Government.

(5) Where in relation to any such goods the value as stated in the invoice is less than the amount which in the opinion of the Reserve Bank represents the full export value of those goods, the Reserve Bank may issue an order requiring the person holding the shipping documents to retain possession thereof until such time as the exporter of the goods has made arrangements for the Reserve Bank or a person authorised by the Reserve Bank to receive on behalf of the exporter payment in the prescribed manner of an amount which represents in the opinion of the Reserve Bank the full export value of the goods.

(6) For the purpose of ensuring compliance with the provisions of this section and any orders or directions made thereunder, the Reserve Bank may require any person making any export of goods to which a notification under sub-section (1) applies to exhibit contracts with his foreign buyer or other evidence to show that the full amount payable by the said buyer in respect of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

**Regulation
of export
and transfer
of securities.**

13. (1) No person shall, except with the general or special permission of the Reserve Bank,—

(a) take or send any security to any place outside India;

(b) transfer any security or create or transfer any interest in a security to or in favour of a person resident outside India;

(c) transfer any security from a register in British India to a register outside India or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in, or registered in, British India, of any security which is either outside or registered outside India;

(d) issue, whether in British India or elsewhere, any security which is registered or to be registered in British India, to a person resident outside India.

(2) Where the holder of a security is a nominee, neither he nor any person through whose agency the exercise of all or any of the holder's rights in respect of the security is controlled shall, except with the general or special permission of the Reserve Bank, do any act whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions, unless both the person previously instructing him and the person substituted for that person were, immediately before the substitution, resident in India.

(3) The Reserve Bank may, for the purpose of securing that the provisions of this section are not evaded, require that the person transferring any security and the person to whom such security is transferred shall subscribe to a declaration that the transferee is not resident outside India.

(4) Notwithstanding anything contained in any other law, no person shall, except with the permission of the Reserve Bank,—

(a) enter any transfer of securities in any register or book in which securities are registered or inscribed if he has any ground for suspecting that the transfer involves any contravention of the provisions of this section, or

(b) enter in any such register or book, in respect of any security, whether in connection with the issue or transfer of the security or otherwise, an address outside India except by way of substitution for any such address in the same country or for the purpose of any transaction for which permission has been granted under this section with knowledge that it involves entry of the said address.

(5) For the purposes of this section,—

(a) "holder" in relation to a bearer security means the person having physical custody of the security; provided that, where a bearer security is deposited with any person in a locked or sealed receptacle from which the person with whom it is deposited is not entitled to remove it without the authority of some other person, that other person shall be deemed to be the holder of the security;

(b) "nominee" means a holder of any security (including a bearer security) or any coupon representing dividends or interest who, as respects the exercise of any rights in respect of the security or coupon, is not entitled to exercise those rights except in accordance with instructions given by some other person, and a person holding a security or coupon as a nominee shall be deemed to act as nominee for the person who is entitled to give instructions either directly or through the agency of one or more persons, as to the exercise by the holder of the security or coupon of any rights in

respect thereof and is not, in so doing, himself under a duty to comply with instructions given by some other person;

(c) "security" also includes coupons or warrants representing dividends or interest, and life or endowment insurance policies.

Custody of securities. 14. (1) The Central Government may, by notification in the official Gazette, order every person by whom or on whose behalf a security or document of title to a security specified in the order is held in British India to cause the said security or document of title to be kept in the custody of an authorised depository named in the order:

Provided that the Reserve Bank may by order in writing permit any such security to be withdrawn from the custody of the authorised depository subject to such conditions as may be specified in the order.

(2) No authorised depository may part with any security covered by an order under sub-section (1) without the general or special permission of the Reserve Bank except to, or to the order of, another authorised depository.

(3) Except with the general or special permission of the Reserve Bank, no authorised depository shall—

(a) accept or part with any security covered by an order under sub-section (1) whereby the security is transferred into the name of a person resident outside India, or

(b) do any act whereby he recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions relating to such security unless the person previously so instructing him and the person substituted for that person were immediately before the substitution resident in India.

(4) Except with the general or special permission of the Reserve Bank, no person shall buy, sell or transfer any security, or document of title to a security, covered by an order under sub-section (1) unless such security or document of title has been deposited in accordance with the order.

(5) Except with the general or special permission of the Reserve Bank, no capital moneys, interest or dividends in respect of any security covered by an order* under sub-section (1) shall be paid in British India except to or to the order of the authorised depository having the custody of the security.

(6) For the purposes of this section,—

(a) "authorised depository" means a person notified by the Central Government to be entitled to accept the custody of securities and documents of title to securities, and

(b) "security" shall include coupons.

15. The Central Government may, by notification in the official Gazette, order that except with the general or special permission of the Reserve Bank no person shall in British India issue any bearer security, or coupon or so alter any document that it becomes a bearer security or coupon.

16. (1) Subject to any exemptions that may be contained in the notification, the Central Government may, if it is of opinion that it is expedient so to do for the purpose of strengthening its foreign exchange position by notification in the official Gazette,—

(a) order the transfer to itself of any foreign securities specified in the notification at a price so specified, being a price which is, in the opinion of the Central Government not less than the market value of the securities on the date of the notification, or

(b) direct the owner of any foreign securities specified, in the notification to sell or procure the sale of the securities and thereafter to offer or cause to be offered the net foreign exchange proceeds of the sale to the Reserve Bank on behalf of the Central Government or to such person as the Reserve Bank may authorise for the purpose, at such price as the Central Government may fix being a price which is in the opinion of the Central Government not less than the market rate of the foreign exchange when it is offered for sale.

(2) On the issue of a notification under clause (a) of sub-section (1),—

(a) the securities to which the notification relates shall forthwith vest in the Central Government free from any mortgage, pledge or charge, and the Central Government may deal with them in such manner as it thinks fit;

(b) the owner of any of the securities to which the notification relates and any person who is responsible for keeping any registers or books in which any of those securities are registered or inscribed, or who is otherwise concerned with the registration or inscription of any of those securities, shall do all such things as are necessary or as the Central Government or the Reserve Bank may order to be done, for the purpose of securing that—

(i) the securities and any documents of title relating thereto are delivered to the Central Government and, in the case of registered or inscribed securities, that the securities are registered or inscribed in the name of the Central Government or of such nominee of the Central Government as it may specify, and

(ii) any dividends or interest on those securities becoming payable on or after the date of the issue, the notification are paid

Restrictions on
issue of bearer
securities

Acquisition by
Central Govern-
ment of foreign
securities.

to the Central Government or its nominee as aforesaid and where in the case of any security payable to bearer which is delivered in pursuance of the said notification, any coupons representing any such dividends or interest are not delivered with the security, such reduction in the price payable therefor shall be made as the Central Government thinks fit :

Provided that where the price specified in the notification in relation to any security is ex-dividend or ex-interest, this sub-clause shall not apply to that dividend or interest or to any coupon representing it.

(3) A certificate signed by any person authorised in this behalf by the Central Government that any specified securities are securities transferred to the Central Government under this section shall be treated by all persons concerned as conclusive evidence that the securities have been so transferred.

Restriction on settlement.

17. (1) No person resident in British India shall, except with the general or special permission of the Reserve Bank, settle any property, otherwise than by will, upon any trust under which a person who at the time of the settlement is resident outside India, elsewhere than in territories notified in this behalf by the Reserve Bank, will have an interest in the property, or exercise, other than by will, any power for payment in favour of a person who at the time of the exercise of the power is resident outside India elsewhere than in such notified territories.

(2) A settlement or power as aforesaid shall not be invalid except in so far as it confers any right or benefit on any person who at the time of the settlement or the exercise of the power is resident outside India, elsewhere than in territories notified by the Reserve Bank.

Certain provision as to companies.

18. (1) Except with the general or special permission of the Reserve Bank, no person resident in British India shall do any act whereby a company, which is controlled by persons resident in India or the United Kingdom ceases to be so controlled.

(2) Except with the general or special permission of the Reserve Bank, no person resident in British India shall lend any money either to any company (other than a banking company) which is controlled, whether directly or indirectly, by persons resident outside India elsewhere than in the United Kingdom or territories notified in this behalf by the Reserve Bank, or to any such person.

Power to call for information.

19. (1) The Central Government may, at any time, by notification in the official Gazette, direct owners, subject to such exceptions, if any, as may be specified in the notification, of such foreign exchange or foreign

securities as may be so specified, to make a return thereof to the Reserve Bank within such period, and giving such particulars, as may be so specified.

(2) The Central Government may by order in writing require any person to furnish it or any person specified in the order with any information, book or other document in his possession, being information, book or document which the Central Government considers it necessary or expedient to obtain and examine for the purposes of this Act.

(3) If on a representation in writing made by a person authorised in this behalf by the Central Government or the Reserve Bank, a District Magistrate, Sub-Divisional Magistrate, Presidency Magistrate or Magistrate of the first class has reason to believe that a contravention of any of the provisions of this Act has been, or is being or is about to be committed in any place, he may by warrant authorise any police officer not below the rank of sub-inspector—

(a) to enter and search any place in the manner specified in the warrant; and

(b) seize any books or other documents found in or on such place which should have been produced in compliance with a requisition issued under sub-section (2) or which the police officer has reason to believe to contain the information required to be furnished under that sub-section.

Explanation.—In this sub-section, “place” includes a house, building, tent, vehicle, vessel or aircraft.

(4) The provisions of sub-sections (1), (2) and (3) of section 54 of the Indian Income-tax Act, 1922, shall apply in relation to information obtained under sub-section (2) of this section as they apply to the particulars referred to in that section, and for the purposes of such application—

(a) the said sub-section (3) shall be construed as if in clause (a) thereof there was included reference to a prosecution for an offence under section 23 of this Act, and

(b) persons to whom any information is required to be furnished under an order made under sub-section (2) of this section shall be deemed to be public servants within the meaning of that section.

20. (1) For the purposes of this Act and of any ^{supplemental} ~~provisions~~ rules, directions or orders made thereunder—

(a) until the Reserve Bank by general or special order otherwise directs, any person who has at any time after the commencement of this Act been resident in India shall be treated as still being resident in India and if such direction is given in relation to any such person the Reserve Bank

may by the same or a subsequent direction, declare the territory in which he shall be treated as being resident;

(b) in the case of any person to whom clause (a) does not apply the Reserve Bank may by general or special order declare the territory in which he shall be treated as being resident;

(c) in the case of any person resident in British India who leaves India, the Reserve Bank may give a direction to any bank that until the direction is revoked, any sum from time to time standing to the credit of that person and any security held on his behalf at any office or branch of that bank in British India specified in the direction, shall not be dealt with except with the permission of the Reserve Bank;

(d) any transactions with a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated;

(e) the making of any book entry or other statement recording a debit against a branch of any business in favour of the head office or any other branch of that business shall be treated as the acknowledgment of a debt whereby a right is created in favour of a person resident where the head office or other branch is situated.

(2) Nothing in this Act relating to the payment of any price or sum by the Central Government shall be construed as requiring the Central Government to pay that price or sum otherwise than in Indian currency or otherwise than in India.

(3) The Reserve Bank may give directions in regard to the making of payments and the doing of other acts by bankers, authorised dealers, travel agents or stock brokers and other persons who are authorised by the Reserve Bank to do anything in pursuance of this Act in the course of their business, as appear to it to be necessary or expedient for the purpose of securing compliance with the provisions of this Act and any rules, orders or directions made thereunder.

Contracts in evasion of this Act

21. (1) No person shall enter into any contract or agreement which would directly or indirectly evade or avoid in any way the operation of any provision of this Act or of any rule, direction or order made thereunder.

(2) Any provision of, or having effect under, this Act that a thing shall not be done without the permission of the Central Government or the Reserve Bank, shall not render invalid any agreement by any person to do that thing, if it is a term of the agreement that that thing shall not be done unless permission is granted by the Central Government or the Reserve Bank, as the case may be; and it shall be an implied term of every contract governed by the law of any part of British India that anything agreed to be done by any term of that contract which is prohibited to be done

by or under any of the provisions of this Act except with the permission of the Central Government or the Reserve Bank, shall not be done unless such permission is granted.

(3) Neither the provisions of this Act nor any term (whether expressed or implied) contained in any contract that anything for which the permission of the Central Government or the Reserve Bank is required by the said provisions shall not be done without that permission, shall prevent legal proceedings being brought in British India to recover any sum which, apart from the said provisions and any such term, would be due, whether as a debt, damages or otherwise, but —

(a) the said provisions shall apply to sums required to be paid by any judgment or order of any Court as they apply in relation to other sums; and

(b) no steps shall be taken for the purpose of enforcing any judgment or order for the payment of any sum to which the said provisions apply except as respects so much thereof as the Central Government or the Reserve Bank, as the case may be, may permit to be paid; and

(c) for the purpose of considering whether or not to grant such permission, the Central Government or the Reserve Bank, as the case may be, may require the person entitled to the benefit of the judgment or order and the debtor under the judgment or order, to produce such documents and to give such information as may be specified in the requirement.

(4) Notwithstanding anything in the Negotiable Instruments Act, 1881, neither the provisions of this Act or of any rule, direction or order made thereunder, nor any condition, whether express or to be implied having regard to those provisions, that any payment shall not be made without permission under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

XXVI of 1881

False statements

22. No person shall, when complying with any order or direction under section 19 or when making any application or declaration to any authority or person for any purpose under this Act, give any information or make any statement which he knows or has reasonable cause to believe to be false, or not true, in any material particular.

Penalty and procedure.

23. (1) Whoever contravenes any of the provisions of this Act or of any rule, direction or order made thereunder shall be punishable with imprisonment for a term which may extend to two years or with fine or with both, and any Court trying any such contravention may, if it thinks fit and in addition to any sentence which it may impose for such contravention, direct that any currency, security, gold or silver, or goods or other property in respect of which the contravention has taken place shall be confiscated.

(2) No Court shall take cognisance of any offence punishable under this section or under section 54 of the Indian Income-tax Act, 1922, as applied by section 19 of this Act, except upon complaint in writing made by a person authorised in this behalf by the Central Government or the Reserve Bank :

XI of 1922

Provided that where any such offence is the contravention of any of the provisions of this Act or any rule, direction or order made thereunder which prohibits the doing of an act without permission, no such complaint shall be made unless the person accused of the offence has been given an opportunity of showing that he had such permission.

(3) If the person committing an offence punishable under this section is a company or other body corporate, every director, manager, secretary, or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed to be guilty of such offence.

Burden of proof in certain cases

24. Where any person is prosecuted for contravening any provision of this Act or of any rule, direction or order made thereunder which prohibits him from doing an act without permission, the burden of proving that he had the requisite permission shall be on him.

Power to Central Government to give direction

25. For the purposes of this Act the Central Government may from time to time give to the Reserve Bank such general or special directions as it thinks fit, and the Reserve Bank shall, in the exercise of its functions under this Act, comply with any such directions.

Bar of legal proceedings

26. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act or any rule, direction or order made thereunder.

Power to make rules

27. (1) The Central Government may, by notification in the official Gazette, make rules for carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe forms and the circumstances of their use for the purposes of this Act;

(b) prescribe the procedure to be followed by authorised dealers and by persons applying for permission to do anything for the doing of which permission is necessary under this Act;

(c) provide for any matter which is to be or may be prescribed under this Act.

The following Report of the Select Committee on the Bill further to amend the Indian Navy (Discipline) Act, 1934, was presented to the Legislative Assembly on the 3rd February, 1947:—

We, the undersigned, members of the Select Committee to which the Bill further to amend the Indian Navy (Discipline) (Amendment) Act, 1934 was referred, have considered the Bill and have now the honour to submit this our report.

Some of us felt that although the revised section 90 propose in clause 2 of the Bill proceeded on the basis of a voluntary engagement, yet in the event of a large number of ships being requisitioned for naval purposes in time of emergency or war, the economic compulsion on the officers and crew of those ships to continue to serve in them under naval discipline would be great since the alternative might in those circumstances be unemployment. They therefore considered that provision should be made for the grant of compensation to those men whose contracts of services under private ship owners had to be terminated by reason of the ships being requisitioned and who did not wish to enter naval service. It was pointed out that the section did not refer to—much less empower—the requisitioning of ships and that the question of granting compensation to seamen in those circumstances was outside the scope of an Act regulating discipline in the Indian Navy. We agree, and think that the proper time for considering this question would be when Government proposed legislation empowering them to requisition ships.

It was then suggested by some of us that the operation of the proposed section should be limited to time of war or other emergency as in the old section. It was pointed out by the Member-in-Charge of the Bill, and we agree, that such a limitation was proper on the old section which left no option to the crew of ships taken over to naval service but to be subject to naval discipline. Since the new section postulates a voluntary agreement, there is no need to restrict its operation to any specified period, whether of emergency or war. Even in time of peace, and particularly at the present stage of development of the Indian Navy, it is necessary to provide in the Act for the engagement of skilled personnel on short term contracts. The proposed section which has been in force throughout the war and is at present in force by virtue of the Emergency Provisions (Continuance) Ordinance, 1946, has proved to be a convenient method of bringing such personnel under naval discipline for the temporary period of their engagement. We, therefore consider that the section should be made permanent as proposed in the Bill.

The fear was again expressed by some of us that seamen engaging to serve in the Navy under the provisions of the proposed section would lose their right to continue as members of their trade unions. In view, however, of the assurance given in the Legislative Assembly by the Honourable the Leader of the House, which has been confirmed before us by the Member-in-charge of the Bill, and the further assurance given by the Member-in-charge that the necessary provision will be included in the Royal Indian Navy Instructions, we agree that there is no cause for apprehension on this score.'

The Bill was published in the *Gazette of India*, dated the 16th November, 1946.

We, therefore, recommend that the Bill be passed without any amendments, apart from the formal substitution of "1947" for "1946" in clause 1.

JOGENDRA NATH MANDAL.

G. S. BHALJA.

N. M. JOSHI.

P. G. SOLANKI.

MUHAMMAD HAFIZ GHAZANFARULLA.

SHER SHAH JEELANI.

M. ANANTHASAYANAM AYYANGAR,
SUKHDEV.

MADANDHARI SINGH.

C. P. LAWSON.
 BHAGIRATHI MAHAPATRA.
 G. H. SPENCE.
 KUMAR SHRI HIMMATSINHJI.
 MANIBEN KARA.

NEW DELHI;
 The 3rd February 1947. }

L. A. BILL NO. 62 OF 1946.

[BILL AS AMENDED BY THE SELECT COMMITTEE]

A bill further to amend the Indian Navy (Discipline) Act, 1934

WHEREAS it is expedient further to amend the Indian Navy (Discipline) Act, 1934, for the purpose ^{XXXIV of 1934} hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Navy (Discipline) (Amendment) Act, 1947.

Amendment of First Schedule, Act XXXIV of 1934.

2. For section 90 of the Naval Discipline Act as set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934, the following section shall be substituted, namely:—

^{29 and 30, Vict., c. 109}

“90. (1) If any person who would not otherwise be subject to this Act enters into an engagement with the Central Government to serve His Majesty—

(a) in a particular ship, or

(b) in such particular ship or in such ships as the Officer Commanding the Indian Navy or any officer empowered in this behalf by the Officer Commanding the Indian Navy, may from time to time determine,

and agrees to become subject to this Act upon entering into the engagement, that person shall, so long as the engagement remains in force, and notwithstanding that for the time being he may not be serving in any ship, be subject to this Act, and the provisions of this Act shall apply in relation to that person, as if, while subject to this Act, he belonged to His Majesty's Navy and were borne on the books of one of His Majesty's ships in commission.

(2) The Central Government may by order direct that, subject to such exceptions as may in particular cases be made by or on behalf of the Officer Commanding the Indian Navy, persons of any such class as may be specified in the order shall, while subject to this Act by virtue of this section, be deemed to be officers or petty officers, as the case may be, for the purposes of this Act or of such provisions of this Act as may be so specified; and any such order may be varied or revoked by a subsequent order.”

Amendment of section 2, Ord. XX of 1946.

3. Clause (iii) of sub-section (1) of section 2 of the Emergency Provisions (Continuance,) Ordinance 1946, shall be omitted.

The following Bills were introduced in the Legislative Assembly on the 6th February, 1947 :—

L. A. BILL NO. 8 OF 1947.

*A Bill further to amend the Delhi Muslim Wakfs Act, 1943
for certain purposes*

WHEREAS it is expedient further to amend the Delhi Muslim Wakfs Act, 1943 (XIII of 1943) for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title, extent and Commencement.**—(1) This Act may be called the Delhi Muslim Wakfs (Amendment) Act, 1947.

(2) It extends to the whole of the Province of Delhi.

(3) It shall come into force at once.

2. **Amendment of Section 7, Act XIII of 1943.**—In section 7 of the Muslim Wakfs Act, 1943 (XIII of 1943), (hereinafter referred to as the said Act) after sub-section (5) the following sub-section shall be added, namely :—

“ (6) The Majlis may accept the resignation of any of its members and the vacancy so caused shall be filled in the manner provided by section 10.”

3. **Amendment of Section 8, Act XIII of 1943.**—In sub-section (1) of section 8 of the said Act, the following words shall be added at the end, namely :—

“ and may accept the resignation of a Sadr so elected and elect another Sad in his place.”

4. **Insertion of new sections 72 and 73 in Act XIII of 1943.**—After section 71 of the said Act the following new sections shall be added, namely :—

“ 72. **Power to summon witnesses and produce documents.**—For the purpose^s of any enquiry under this Act, the Majlis or the first Nazir or any person authorized by the Majlis in this behalf shall have the power to summon and enforce the attendance of witnesses including the parties interested and compel the production of documents by the same means, and, so far as may be, in the same manner as is provided in the case of Civil Court in the Code of Civil Procedure, 1908 (V of 1908).

73. **Penalty**—(1) If a mutawalli fails :—

(a) to apply for registration of a wakf under section 43,

(b) to furnish statements of particulars or of accounts or returns as required by this Act,

(c) to supply information or particulars as required by the Majlis or the first Nazir or a person authorized by the Majlis in this behalf,

(d) to allow inspection of wakf properties, accounts, or records, or deeds and documents relating thereto, or to assist inquiries and investigations if called upon to do so by the Majlis or the first Nazir or a person authorized by the Majlis,

(e) to deliver possession of any wakf property if ordered by the Majlis or the Court,

(f) to carry out the directions of the Majlis or the first Nazir or a person authorized by the Majlis or the first Nazir,

(g) to pay the fee payable under section 56,

(h) to discharge any public dues, or

(i) to do any other act which he is lawfully required to do by or under this Act,

he shall, unless he satisfies the Court that there was reasonable cause for his failure, be punishable with fine which may extend to Rs. 250.

- (2) If a mutawalli furnishes any statement, return or information referred to in clause (b) or clause (c) of sub-section (1) which he knows or has reason to believe to be false, misleading or untrue in any material particular he shall be punishable with fine which may extend to Rs. 250.
- (3) In case of a second conviction under sub-section (1) or sub-section (2) of this Section the amount of fine which the court may impose may extend to Rs. 500, and in case of a third conviction the amount of fine may extend to Rs. 1,000 and the Mutawalli shall also be removed.
- (4) The Mutawalli shall be personally liable for the payment of a fine imposed under this section.
- (5) All fines imposed under this section shall be credited to the Wakf Fund."

STATEMENT OF OBJECTS AND REASONS

The Delhi Muslim Wakfs Act XIII of 1943 as it stands does not contain any provision as to the authority which is competent to accept the resignation of a member of the Majlis-i-Awkaf or of the Sadr of the Majlis. The necessity of such a provision has been felt in actual practice. It is, therefore, proposed to amend Sections 7 and 8 of the Act. Besides this, the experience so far gained of the actual working of the Delhi Muslim Wakfs Act of 1943 has proved that Mutawallis of Wakfs do not co-operate with the Majlis-i-Awkaf in supplying the necessary information about the wakfs of which they are in charge and, therefore, it has not been found practicable to complete the registration of wakfs and to prepare authentic records relating to them. The result has been that the Majlis has only partially succeeded in attaining the object of its incorporation and existence. The reason why the Majlis has found itself helpless in so many cases is that it possesses no statutory power to compel the discovery and production of documents and the attendance and examination of witnesses, nor do the Mutawallis run any risk of a legal penalty being imposed on them if they withhold information or supply false, misleading, or untrue accounts and particulars. It is, therefore, necessary to arm the Nazir-i-Awkaf and the Majlis-i-Awkaf with the powers proposed in clause 72 the wording of which is almost identical with that of Section 33 of the Bengal Wakfs Act, 1934 and which in effect reproduces section 46 of the United Provinces Muslim Wakfs Act of 1936. It is also necessary to prescribe penalties for failure to supply true information and for certain other forms of contumacious behaviour on the part of the Mutawallis and the proposed clause 73 embodies the proposed penalties which are for the most part analogous to the penalties provided for in section 57 of the Bengal Muslim Wakfs Act of 1934. Hence this Bill.

GHULAM BHIK NAIRANG.

L. A. BILL No. 9 OF 1947.

A Bill to repeal the Criminal Tribes Act, 1924.

WHEREAS it is expedient to repeal the Criminal Tribes Act, 1924 (VI of 1924); It is hereby enacted as follows :—

1. **Short title, commencement and extent.**—(1) This Act may be called the Criminal Tribes (Repeal) Act, 1947.
- (2) It shall come into force immediately.
- (3) It shall extend to the whole of British India.
2. The Criminal Tribes Act, 1924 (VI of 1924) is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Criminal Tribes Act, 1924 is oppressive and inhuman. Instead of improving the morale of the backward communities, it has the tendency to make them deteriorate mentally and morally. The Act is a blot on the statute book and should not be allowed to stand in it any more.

R. VENKATASUBBA REDDIAR.

L. A. BILL No. 10 OF 1947

A Bill further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898) for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. Short title.—This Act may be called the Code of Criminal Procedure (Amendment) Act, 19 .

2. Amendment of Section 250, Act V of 1898.—In sub-section (1) of section 250 of the Code of Criminal Procedure 1898 (V of 1898) (hereinafter referred to as the said Code)—(1) after the words “If in any case instituted upon complaint or upon information given to a Police Officer or to a Magistrate” the words “of Police Officer on his report” shall be inserted; and (2) after the words “is present” the words “whether he is a Police Officer or not” shall be inserted.

3. Insertion of a new section 417A, in Act V of 1898.—After Section 417 of the said Code, the following new section shall be inserted, namely :—

“417A. *Appeal by aggrieved person in case of acquittal.*—Any person aggrieved by order of acquittal may appeal from an Original or Appellate order of acquittal passed by any Court to a Court having jurisdiction to hear appeals on convictions from the order of the Court within thirty days from the date of the order of Provincial Government refusing to direct the Public Prosecutor to prefer an appeal against the said order of acquittal under Section 417.”

4. Amendment of Section 522, Act V of 1898.—In sub-section (1) of section 522 of the said Code, the words “by such force or show of force or criminal intimidation” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The amendments suggested have been found necessary by experience. Very often Police Officers belonging to the lower rank constitute themselves complainants in cognisable cases and institute criminal prosecution on their own initiative and knowledge without having regard to truth. They often in the mofussil launch cases which subsequently turn out to be false and frivolous or vexatious. Section 250 as it stands, absolves such police officers from any liability, provided in this section. The amendment is intended to extend the scope of this speedy remedy to this class of cases.

2. Under Section 417 as it stands only the Provincial Government has a right of appeal against acquittal. Government is very often moved by consideration of cost and expenses involved in an appeal to the High Court. Instances of serious miscarriage of justice have come to light by erroneous acquittal in serious offences involving violence to life and property wherein Provincial Governments have either failed or refused to move and prefer appeals against acquittal. It is just and natural that the aggrieved persons, for example, relatives of the murdered, should have an opportunity to appeal against orders of acquittal when Government machinery, due to certain reasons, fails to give them relief. Hence the amendment of the sections.

3. In criminal cases arising out of dispossession of the immoveable property, an element of force, show of force or criminal intimidation is always present. Very often immoveable properties are taken possession of by questionable methods and once dispossession and an offence are proved, the Court should restore the possession to the dispossessed person and the aggressor should go to Civil Courts for his remedy. Otherwise, the premium on forceful dispossession will be put.

AHMED E. H. JAFFER.

L. A. BILL No. 11 of 1947

A Bill further to amend the Indian Evidence Act, 1872

WHEREAS it is expedient further to amend the Indian Evidence Act, 1872 (I of 1872), for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short Title.**—This Act may be called the Indian Evidence (Amendment) Act, 1947.

2. **Amendment of Section 90, Act I of 1872.**—In section 90 of the Indian Evidence Act, 1872 (I of 1872), after the words " considers proper " and before the words " the Court may presume " the words " or where in the case of a document purporting or proved to be thirty years old and registered in accordance with the provisions of the Indian Registration Act, 1908 (XVI of 1908), a copy of such document certified under the provisions of the said Act, is produced ", shall be inserted.

STATEMENT OF OBJECTS AND REASONS

A large number of judicial decisions since 5 C 886 had followed the view that section 90 of the Indian Evidence Act is applicable to certified copies of documents. This view has been definitely negatived by the Privy Council in 56 I. A. 146. Considering the difficulty of proving execution of ancient documents, it is equitable that the benefit of section 90 should be extended to certified copies of registered documents. The Bill is intended to secure this object.

S. T. ADITYAN.

L. A. BILL NO. 12 OF 1947

A Bill further to amend the Indian Bar Councils Act, 1926, and the Legal Practitioners Act, 1879

WHEREAS it is expedient further to amend the Indian Bar Councils Act, 1926 (XXXVIII of 1926), and the Legal Practitioners Act, 1879 (XVIII of 1879), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Indian Bar Councils and the Legal Practitioners (Amendment) Act, 1946.

2. Amendment of Section 10, Act XXXVIII of 1926.—To sub-section (1) of section 10 of the Indian Bar Councils Act, 1926 (XXXVIII of 1926), the following explanations shall be added, namely;

“Explanation (i).—The holding of any political opinion or the expression of it in any form or act provided it does not involve violence and incitement to or abetment of violence is not misconduct under this sub-section.

Explanation (ii).—Conviction under any Law or Ordinance, general, special local or otherwise, or under any rules, including conviction under section 124-A of the Indian Penal Code (XLV of 1860), for any political offence where the person convicted is not found guilty of violence or incitement to or abetment of violence is no proof of misconduct.”

3. Insertion of new section 18A in Act XVIII of 1879.—After section 18 of the Legal Practitioners Act, 1879 (XVIII of 1879), the following new section shall be inserted, namely,

“18A. Notwithstanding anything contained in sections 12 and 18, no pleader or mukhtar holding a certificate as aforesaid shall be liable to be proceeded against or punished under those sections for holding any political opinion or for expressing it in any form or act, provided it does not involve violence or incitement to or abetment of violence, nor for having been convicted under section 124-A of the Indian Penal Code (XLV of 1860) or under any general special or local law or Ordinance or under any rules, if he has not been found guilty of violence, or incitement to or abetment of violence.”

4. Provision for restoration of a legal practitioner to his former status.—Any advocate, pleader or mukhtar against whom any proceedings or disciplinary action have been taken under the Indian Bar Councils Act, 1926 (XXXVIII of 1926), or the Legal Practitioners Act, 1879 (XVIII of 1879), before the commencement of this Act, may within one year from the commencement of this Act apply to have the proceedings dropped or the disciplinary action set aside; and if it is proved that such proceedings or disciplinary action could not have been taken if this Act were at that time in force, the proceedings shall be dropped and the disciplinary action set aside forthwith, and the person restored to his former status.

STATEMENT OF OBJECTS AND REASONS

There have recently come before the Courts many cases in which legal practitioners who were convicted of offences under such emergency ordinances like the Defence of India Rules for their political activities were debarred, in spite of their admittedly high character and professional integrity and in spite of the fact that the offences did not involve violence. In a recent case in the Madras High Court the entire Bar of the country gave the opinion that acts which did not involve violence did not amount to moral turpitude: but the Court reprimanded the advocate. The opinion of the several High Courts are not uniform on this subject. The Calcutta High Court has held that such non-violent political activities did not amount to defect of character. Public opinion as also the

considered opinion of the legal profession in the country is against striking lawyers off the Rolls for their non-violent political activities. In the course of a country's struggle for freedom and in view of the impending constitutional changes in the country, all citizens including lawyers should be free to serve without fear or favour. It is very often the case that persons who have been imprisoned for their political opinions or activities are persons of noble character and are the chosen leaders of the people, respected and honoured. Some of these are even called to fill high posts of honour and responsibility on political changes occurring in the country. The administration of law and justice stultifies itself by proceeding against such persons. This amendment has long been felt necessary. Even in the last assembly a bill was introduced for the purpose. The proposed amendment seeks to bring the law into conformity with the progressive ideas of the people.

T. V. SATAKOPACHARI.

L. A. BILL NO. 13 OF 1947.

A Bill further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title, commencement and extent.—(1) This act may be called the Code of Criminal Procedure (Amendment) Act, 1946.

(2) It shall come into force immediately.

(3) It shall extend to the whole of British India.

2. Amendment of Section 161, Act V of 1898.—In sub-section (3) of Section 161 of the Code of Criminal Procedure, 1898 (V of 1898) (hereinafter referred to as the said Code),—

(a) for the word "may" the word "shall" shall be substituted; and

(b) the words "if he does so he" shall be omitted.

3. Amendment of Section 162, Act V to 1898.—In sub-section (1) of Section 162 of the said Code, the words "if reduced into writing" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Considerable hardship is caused to the accused and their counsel by giving the option of recording or not the statements referred to to the fancies of the investigating officer. The provision has led also to abuse and the original intention of the Legislature has not been carried out. The amendment seeks to do away with these difficulties and help the administration of justice.

T. V. SATAKOPACHARI.

L. A. BILL NO. 14 OF 1947

A Bill to amend the Criminal Tribes Act, 1924.

WHEREAS it is expedient to amend the Criminal Tribes Act, 1924 (VI of 1924); It is enacted as follows:—

1. Short title, commencement and extent.—(1) This Act may be called the Criminal Tribes (Amendment) Act, 194 .

(2) It shall come into force immediately.

(3) It extends to the whole of British India.

2. Amendment of Section 23, Act VI of 1924.—In sub-section (1) of Section 23 of the Criminal Tribes Act, 1924 (VI of 1924):—

- (1) For the word "shall" occurring after the words 'such offence' the word "may" shall be substituted;
- (2) In clause (a) between the words "second" and "conviction" the word "or further" shall be inserted;
- (3) In clause (a) for the word "less" the word "more" shall be substituted.
- (4) Clause (b) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

In the Criminal Tribes Act, 1924, the minimum punishment prescribed for a second offender's third offence, is oppressive and instead of a minimum, a maximum is prescribed in the Bill and transportation ought to be done away with.

R. VENKATASUBBA REDDIAR.

L. A. BILL No. 15 OF 1947

A Bill further to amend the Indian Companies Act, 1913.

WHEREAS it is expedient further to amend the Indian Companies Act, 1913 (VII of 1913), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short Title.—This Act may be called the Indian Companies (Amendment) Act, 1947.

2. Amendment of section 25, Act VII of 1913.—In sub-section (1) of section 25 of the Indian Companies Act, 1913 (VII of 1913) (hereinafter referred to as the said Act),—

For the words "every member" the words "any person" shall be substituted.

3. Amendment of section 31, Act VII of 1913.—In sub-section (1) of section 31A of the said Act, after the words "members of the company" the words "and in case of joint-holders of the names of every joint holder separately" shall be inserted.

4. Amendment of section 32, Act VII of 1913.—In sub-section (2) of section 32 of the said Act, after the words "the dates of registration of transfers" the words "names of transferees whose applications for transfers of shares were refused and the number of shares comprised in each such transfer" shall be inserted.

5. Amendment of section 36, Act VII of 1913.—In sub-section (2) of section 36 of the said Act, after the words "to that person" the words "certified to be a true copy by an officer of the company" shall be inserted.

6. Amendment of section 87F, Act VII of 1913.—In section 87F of the said Act, the words "A statement of investments in such shares or debentures shall be placed every year before the share-holders at the Annual General Meeting of the company for approval" shall be added at the end.

7. Amendment of section 105C, Act VII of 1913.—In section 105C of the said Act, after the words "(irrespective of class)" the words "except holders of redeemable Preference shares" shall be inserted.

8. Amendment of section 131A, Act VII of 1930.—In sub-section (2) of section 131A the words "The report shall state whether the report was unanimously passed by directors present or not, and where the report is not unanimous the dissenting director shall have a right to add a dissenting note to the Report and the same shall be published in the report and form part of the same" should be added at the end.

9. Amendment of section 134, Act VII of 1913.—In sub-section (1) of section 134 of the said Act, after the words "three copies thereof" the words "and of the report of Directors and of Auditors to the share-holders" shall be inserted.

10. Amendment of section 137, Act VII of 1913.—In sub-section (1) of section 137 of the said Act, after the words "the provisions of this Act" the words "or on the written application of members holding one-tenth of the shares issued shall be inserted.

11. Amendment of section 145, Act VII of 1913.—In sub-section (4) of section 145 of the said Act, for the words "to attend any" the words "shall attend every" shall be substituted.

12. Amendment of Third Schedule, Act VII of 1913.—In Form E of the Third Schedule of the said Act, after the present tabular statement showing the list of persons holding shares, etc., a tabular statement to the following effect shall be inserted:—

Particulars of transfers of shares refused after the date of the last return

| Date of refusal | Name/s and address of the share-holder/s transferring share/s | Name/s and address of the person/s in whose favour the transfer was executed | Number of share/s involved in each transfer | Class of share: |
|-----------------|---|--|---|-----------------|
| | | | | |

STATEMENT OF OBJECTS AND REASONS

Clause 2.—The object is to enable persons to know the provisions of the Memorandum and of Articles of Association of a Company before subscribing for or purchasing shares in it.

Clause 3.—The proposed amendment appears to be included in the section itself, but it is not in practice observed, as a result of which it is impossible or very difficult to trace the names of joint members from the Register, particularly when a joint member other than the first one executes any document wherever he is entitled to do so.

Clause 4.—The policy, if any, of acceptance and rejection of transfers should be known to all concerned.

Clause 5.—It is desirable that a copy supplied of any Register of Members or of any part thereof or of the list and summary required by the Companies Act, be certified to be true by an officer of the company.

Clause 6.—It is desirable that Members should have information as regards investments in shares or debentures of any company under the management of the same Managing Agents.

Clause 7.—This is to prevent Redeemable Preference Share-holders from acquiring additional rights as these shares are liable to be paid off in course of time.

Clause 8.—It is desirable that the share-holders should know the dissenting opinion of a Director.

Clauses 9 and 10.—In a recent case where an application was made to the Registrar of Companies, Bombay, under section 137 (1) to call for information in view of certain statements made in the Auditors' Certificate reflecting on the management of the company, it appears to have been suggested that no action could be taken under the section inasmuch as there was no provision in the Act requiring the Auditors' Certificate to be filed. It is, therefore, desirable expressly provide that the Directors' Report and the Auditors' Report should be filed with the Registrar.

Clause 11.—The object of this amendment is to ensure the presence of Auditors at General Meetings instead of leaving it to their option.

Clause 12.—The object of this amendment is to bring Form E of the Third Schedule into conformity with the proposed amendment in section 32 (2).

G. V. DESHMUKH.

The following Bill was introduced in the Legislative Assembly on the 10th February, 1947:—

L. A. BILL NO. 16 OF 1947.

A Bill to declare certain offices in the service of the Crown in India to be offices the holding of which does not disqualify the holder thereof for election as or continuance as a member of either Chamber of the Indian Legislature.

WHEREAS it is expedient to declare certain offices in the service of the Crown in India to be offices the holding of which does not disqualify the holder thereof for election as or continuance as a member of either Chamber of the Indian Legislature;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Legislature (Prevention of Disqualification) Act, 1947. Short title and commencement.

(2) It shall have retrospective effect as if it had commenced on the 1st day of October 1946.

2. A person shall not be disqualified for election as or continuance as a member of either Chamber of the Indian Legislature by reason only that he holds or accepts any office in the civil or military service of the Crown in India which is an office not involving both of the following incidents, namely, that the incumbent—

- (i) is a whole-time servant of Government, and
- (ii) is remunerated either by salary or fees.

3. If any question arises whether the incumbent of any office is or is not a whole-time servant of Government for the purposes of clause (i) of section 2, the decision of the Central Government shall be final.

STATEMENT OF OBJECTS AND REASONS

Sub-section (1) of section 63E of the old Government of India Act ran as follows:—

“An official shall not be qualified for election as a member of either chamber of the Indian legislature, and, if any non-official member of either chamber accepts office in the service of the Crown in India, his seat in that chamber shall become vacant.”

Section 134 of the same Act defined the expressions “official” and “non-official” as follows:—

‘The expressions “official” and “non-official”, where used in relation to any person, mean respectively a person who is or is not in the civil or military service of the Crown in India:’

Provided that rules under this Act may provide for the holders of such offices as may be specified in the rules not being treated for the purposes of this Act, or any of them, as officials.’

Rule 2 of the Non-Official (Definition) Rules made under the rule-making power conferred by the proviso to this definition ran as follows :—

“The holder of any office in the civil or military service of the Crown, if the office is one which does not involve both of the following incidents, namely, that the incumbent—

(a) is a whole-time servant of Government, and

(b) is remunerated either by salary or fees,

shall not be treated as an official for any of the purposes of the Government of India Act.”

2. Sub-section (1) of section 63E was included in the provisions of the old Act set out in the Ninth Schedule to the existing Constitution Act, but section 134 was not included therein, with the result that the initial relevant effect of the Constitution Act was to leave no means available of taking any category of official or office out of the mischief of sub-section (1) of section 63E. Such means were, however, subsequently provided by sub-section (1) of section 3 of the India and Burma (Temporary and Miscellaneous Provisions) Act, 1942, which added the following proviso to sub-section (1) of section 63E as set out in the Ninth Schedule :—

“Provided that an Act of the Indian Legislature may declare any office in the service of the Crown in India to be an office the holding of which does not disqualify the holder thereof for election as, or continuance as, a member of either chamber of the Indian Legislature, and any such Act may be made to have effect from any date before the passing thereof, not earlier than the third day of September, nineteen hundred and thirty-nine.”

3. The Indian Legislature (Prevention of Disqualification) Ordinance, 1942 (LXII of 1942), promulgated in pursuance of this proviso removed the disqualification attaching to the holding or acceptance of office in respect of—

“(a) an office not involving both of the following incidents, namely, that the incumbent—

(i) is a whole-time servant of Government, and

(ii) is remunerated either by salary or fees ; or

(b) an office in the naval, military or air forces of, or raised in British India on behalf of, His Majesty ; or

(c) an office certified by the Central Government to be an office created for a purpose connected with the prosecution of the war, or to be an office to which, but for war conditions, a member of the defence or civil services of the Crown would have been appointed.”

Sub-section (3) of section 1 of the Ordinance in question provides that it shall be in force only until the termination of the present hostilities and for six months thereafter and the Ordinance consequently ceased to be in force on the 1st October, 1946.

4. With Ordinance LXII of 1942 no longer in force and with no further legislation enacted in pursuance of the proviso to sub-section (1) of section 63E in the Ninth Schedule, no “official” would be qualified for election to the Indian Legislature, while if a non-official member of the Indian Legislature, whether elected or nominated, accepted office of any kind, his seat would automatically become vacant.

5. The dispensation in favour of offices in categories (b) and (c) (paragraph 3 *ante*) was directed to the exigencies of the war and it is not proposed that the dispensation in favour of these categories should be renewed. But it is strongly felt that the dispensation in favour of offices in category (a) should be renewed, with the effect of restoring the position which prevailed under the Non-Official (Definition) Rules and in particular of equating the position in relation to any further general election and to any bye-election to either Chamber, with the position which, under the

operation of clause (b) of section 307 of the Constitution Act, prevailed in relation to the first elections to the Provincial Legislature and was to have prevailed in relation to the first election to the Federal Legislature. (Section 307 runs as follows :—

- “ For the purposes of the first elections of persons to serve as members of the Federal Legislature and of Provincial Legislatures, no person shall be subject to any disqualification by reason only of the fact that he holds—
- (a) an office of profit as a non-official member of the Executive Council of the Governor General or a Governor, or a minister in a Province ;
 - (b) an office which is not a whole-time office created either by salary or by fees.”)

The same position is capable of being permanently produced in relation to Provincial Legislatures by legislation in pursuance of clause (a) of sub-section (1) of section 69 of the Constitution Act and was designed to be capable of being permanently produced in relation to the Federal Legislature by legislation in pursuance of clause (a) of sub-section (1) of section 26 thereof.

6. The Bill gives effect to the object explained in paragraph 5. The potential beneficiaries will be the holders of purely honorary offices; and holders of part-time offices, such as Government Pleaders and members of the Army in India Reserve of Officers.

NEW DELHI,

J. MANDAL.

The 23rd January, 1947.

L. A. BILL NO. 17 OF 1940

A Bill to continue for a limited period powers to prohibit or control imports and exports

WHEREAS it is expedient to continue for a limited period powers to prohibit, restrict or otherwise control imports into and exports from British India;

It is hereby enacted as follows :—

1. (1) This Act may be called the Imports and Exports (Control) Act, 1947. Short title, extent commencement and duration.

(2) It extends to the whole of British India.

(3) It shall come into force on the 25th day of March 1947, and shall remain in force for a period of three years only.

2. In this Act, “import” and “export” mean respectively bringing into, and taking out of, British India by sea, land or air. Interpretation.

3. (1) The Central Government may, by order published in the official Gazette, make provision for prohibiting, restricting or otherwise controlling, in all cases or in specified classes of cases, and subject to such exceptions, if any, as may be made by or under the order,— Powers to prohibit or restrict import and exports.

(a) the import, export, carriage coast wise or shipment as ships' stores of goods of any specified description;

(b) the bringing into any port or place in British India of goods of any specified description intended to be taken out of British India without being removed from the ship or conveyance in which they are being carried.

(2) All goods to which any order under sub-section (1) applies shall be deemed to be goods of which the import or export has been prohibited or restricted under section 19 of the Sea Customs Act, 1878, and all the provisions of that Act shall have effect accordingly, except that section 183 thereof shall have effect as if for the word "shall" therein the word "may" were substituted.

(3) Notwithstanding anything contained in the aforesaid Act, the Central Government may, by order published in the official Gazette, prohibit, restrict or impose conditions on the clearance, whether for home consumption or for shipment abroad, of any goods or class of goods imported into British India.

Continuance of existing orders.

(4) All orders made under rule 84 of the Defence of India Rules or that rule as continued in force by the Emergency Provisions (Continuance) Ordinance, 1946, and in force immediately before the commencement of this Act shall, so far as they are not inconsistent with the provisions of this Act, continue in force and be deemed to have been made under this Act.

Penalty.

5. If any person contravenes any order made or deemed to have been made under this Act, he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Sea Customs Act, 1878, as applied by sub-section (2) of section 3, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Saving.

6. No order made or deemed to have been made under this Act shall be called in question in any Court, and no suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any order made or deemed to have been made thereunder.

STATEMENT OF OBJECTS AND REASONS

The control over imports and exports was imposed in exercise of the powers under Rule 84 of the Defence of India Rules and subsequently extended under the Emergency Provisions (Continuance) Ordinance, 1946 (Ordinance XX of 1946). The latter will cease to be operative after 24th March 1947.

2. The question of continuance of import and export control beyond the 24th March 1947 has been examined and it is considered that though the actual administration of these measures calls for gradual simplification as conditions permit, the measures themselves should be retained for sometime longer in order to avoid any disturbance to the economy of the country during the transition from war time to peace time conditions.

3. The Bill is designed to give effect to this object. It also provides for penalties, which have been considerably reduced to suit peace conditions.

NEW DELHI;

The 5th February, 1947.

ISMAIL I. CHUNDRIGAR.

The following Report of the Select Committee on the second Bill further to amend the Motor Vehicles Act, 1939, was presented to the Legislative Assembly on the 3rd February, 1947 :—

We, the undersigned, members of the Select Committee to which the second Bill further to amend the Motor Vehicles Act, 1939, was referred, have considered the Bill and have now the honour to submit this our Report with the Bill as amended by us annexed thereto.

As mentioned in our report on the first Bill to amend the same Act, we have incorporated in the revised Bill annexed to this Report the amendments proposed in clauses 57 to 64 of the first Bill. This has necessitated a renumbering of clauses in the revised Bill, but references have been given in the margin thereof to the clauses of the first and second Bills as introduced in the Legislative Assembly.

Clause 2.—This combines clause 57 of the first Bill and clause 2 of the second Bill. We consider that provision for reciprocal arrangements should be made in respect of the Crown Representative's Administered Areas like the Civil and Military Station of Bangalore, Baroda Cantonment, Quetta, etc., in the same manner as for Indian States. The law obtaining in these areas is distinct from the State law and from the law of British India. A definition of "reciprocating territory" has accordingly been added to section 93.

The definition of "authorised insurer" has been further expanded to include the Central Government or a Provincial Government or the Government of a reciprocating Indian State, when that Government carries on the business of insuring motor vehicles against third party risks. This is necessary because under section 118 of the Insurance Act, 1938, nothing in that Act applies to any insurance business carried on by the Central or by a Provincial Government, with the result that such a Government may not be regarded as an insurer in whose case the requirements of the Insurance Act regarding registration are complied with. The position is the same in the major Indian States which have a similar Act.

Clause 3.—Apart from formal changes made in the interests of clarity, the additions of substance are clause (vii) of the proposed sub-section (2), which provides for exemption of local authorities in Administered Areas on the same footing as those in British India, and an addition in clause (vi) conferring a concurrent power of exemption on the Central Government, since certain local authorities like Port Trusts and Cantonment Authorities are subject to the control of the Centre. In regard to both these clauses, we have assumed that, before exempting local authorities under either of them, the Government concerned will take into account their financial position and satisfy itself that they could safely be left to carry the risks without insuring their vehicles with authorised insurers.

Clause 4.—This combines clause 59 of the first Bill and clause 3 of the second. We have, however, found it necessary to provide for certain further amendments of section 95 of the Act. The first is an addition to clause (a) of sub-section (1) of that section in order to make it clear that insurance with a co-operative society allowed under section 108 to transact business of this type is sufficient compliance with the requirements of Chapter VII.

The second is with reference to clause (i) of the proviso to sub-section (1) and sub-section (3). The effect of the former is to exclude all liability arising under the Workmen's Compensation Act from the scope of the compulsory insurance under section 95 of the Motor Vehicles Act. Sub-section (3) however empowers Provincial Governments to bring within their scope a limited class of liability arising under the

Workmen's Compensation Act, which has led to a lack of uniformity. Moreover, the liability in respect of employees who are being carried in a motor vehicle at the time of the accident is extremely uncertain, since the number of employees so carried may be as few as one or two or as large as 30 or 40, e.g., in a large goods vehicle. With a view, therefore, to re-introducing uniformity all over British India in the operation of this section, and defining with greater precision the liability under the Workmen's Compensation Act to be covered by the authorised insurers, we have proposed that sub-section (3) of section 95 should be omitted and clause (i) of the proviso to sub-section (1) and clause (a) of sub-section (2) should be amended as indicated in the revised clause. The effect of these amendments would be to cover workmen's compensation liabilities in respect of—

- (a) paid drivers, in the case of all vehicles;
- (b) paid conductors and ticket examiners, in the case of public service vehicles, and
- (c) paid employees, other than drivers, being carried, in the case of goods vehicles,

but the liability under (c) in respect of any one accident would be limited to six such employees.

Clause 8.—This combines clause 63 of the first Bill and clause 6 of the second. A few more amendments of section 108 of the Act, mainly of a clarificatory or formal character, have been proposed by us in the revised clause.

In sub-section (1), an amendment of clause (c) is proposed in order to enable the Provincial Governments to specify the amount referred to in that clause, instead of it being laid down in rules prescribed by the Central Government, since the Provincial Governments are in a better position to judge the capacity of particular co-operative societies to carry the risks without re-insurance.

An additional clause (cc) has been proposed in the same sub-section in order to enable co-operative societies to accept re-insurances from other societies.

Existing clause (h) relating to the winding up of these societies is somewhat ambiguous and may not be considered sufficient for excluding the provisions of the law under which a society has been constituted. We have, therefore, omitted the clause from sub-section (1) and made a clear and specific provision in sub-section (2) with regard to this matter.

In conclusion we wish to bring to the notice of the Legislative Assembly that under sub-section (2) of section 94 of the Act, as it stands and as proposed to be amended by the Bill, all motor vehicles which are Crown property are exempt from the requirement of being kept insured against third party risks. This is no doubt on the understandable ground that the Governments in British India will always be able and ready to meet all claims which may be sustainable against them at law and which arise out of the use of these vehicles by their servants, and there is accordingly no need to require them to spend public revenues in insuring the vehicles. The legal liability of the Governments in British India for the wrongs or negligences of their servants in the performance of their duties as such servants is, broadly speaking, limited to acts committed in the conduct of a commercial undertaking or business, and does not extend to acts done in the exercise of the sovereign or governmental power. From the point of view, however, of the private individual who suffers damage by the wrongful or negligent act of a Government servant in charge of a Government owned vehicle, the position arising out of this legal distinction is hardly satisfactory, and in our opinion requires to be removed by suitable legislative action at an early date.

2. The Bill was published in the *Gazette of India*, Part V, dated the 9th November, 1946.

3. We think that the Bill has not been so altered as to require re-publication and we recommend that it be passed as now amended.

JOHN MATTHAI.
 SRI KRISHNA DUTT PALIWAL.
 *N. V. GADGIL.
 THAKUR DAS BHARGAVA.
 *N. NARAYANAMURTHI.
 *SATYAPRIYA BANERJEE.
 M. A. F. HIRTZEL.
 D. N. BHATTACHARYYA.
 MOHAMMAD YAMIN KHAN.
 SIDDIQ ALI KHAN.
 GHULAM BHIK NAIRANG.
 MUHAMMAD NAUMAN.
 *MOHAN LAL SAKSENA.
 *M. ANANTHASAYANAM AYYANGAR.

NEW DELHI;

The 3rd February, 1947.

MINUTES OF DISSENT

I

Under Sub-section 2 of Section 94 of the Motor Vehicles Act, 1939 all Motor Vehicles which are crown property are exempt from the requirement of being kept insured against third party risk. This exemption may have some justification, but it seems that in the near future Government is bound to participate more and more in this sphere of Motor Transport. It is therefore necessary that this exemption should go and some provision must be made so that risks will be covered. I suggest that all motor vehicles belonging to Government whether they are used for plying regular service or used by Government officials for the purpose of discharging official duties must be insured. I suggest that Government may start a sort of Insurance Fund on a statutory basis and in this Fund Government should pay the amounts of premia calculated on the basis of approved tables. The cost of insurance under this proposal will be an element in the fixation of rates, but this is in a line with all commercial undertakings. I therefore desire that Section 94 of this Act may be amended by the House suitably and I do not think if an amendment of that character is approved it would be outside the scope of the Bill.

N. V. GADGIL.

NEW DELHI;

The 3rd February, 1947.

II

We are definitely of the view that the Provincial and Central Governments should exclusively take up the work of third-party risk insurance; but until that is done we suggest that the owners of private motor cars should also be permitted under the law to form Co-operative Societies for insuring their cars like the transport bus owners.

M. ANANTHASAYANAM AYYANGAR.
 MOHAN LAL SAKSENA.
 SATYAPRIYA BANERJEE.
 N. NARAYANAMURTHI.

NEW DELHI;

The 3rd February, 1947.

*Subject to a minute of dissent.

L. A. BILL No. 54 of 1946.

(BILL AS AMENDED BY THE SELECT COMMITTEE)
(Words underlined or sidelined indicate the amendments suggested by the Committee)

A Bill further to amend the Motor Vehicles Act, 1939

WHEREAS it is expedient further to amend the Motor Vehicles Act, 1939 (IV of 1939), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title and commencement. 1. (1) This Act may be called the Motor Vehicles (Second Amendment) Act, 1947.

Cl. 1 of 2nd Bill. (2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Amendment of section 93, Act IV of 1939. 2. (1) In section 93 of the Motor Vehicles Act, 1939 (hereinafter referred to as the said Act),—

(a) for clause (a), the following clause shall be substituted, namely:—

Cl. 57 of 1st Bill and Cl. 2 of 2nd Bill. “(a) ‘authorised insurer’ means an insurer in whose case the requirements of the Insurance Act, 1938, or of the corresponding law of a reciprocating territory with respect to the registration of insurers are complied with, and includes, where the business of insuring motor vehicles against third party risks is carried on by the Central Government or a Provincial Government or the Government of an Indian State which is a reciprocating territory, such Government”;

Cl. 57 of 1st Bill. (b) in clause (b), after the word “includes”, the words “a cover note complying with such requirements as may be prescribed, and” shall be inserted.

(2) To the said section 93, the following clause shall be added namely:—

“(c) ‘reciprocating territory’ means any such Indian State or such area administered by the Crown Representative as may be notified by the Central Government in the official Gazette to be a reciprocating territory for the purposes of this Chapter.”

Amendment of section 94, Act IV of 1939. 3. For sub-section (2) of section 94 of the said Act, the following sub-section shall be substituted, namely:—

Cl. 58 of 1st Bill. “(2) Subject to any prescribed conditions, sub-section (1) shall not apply to any vehicle owned by any of the following authorities, namely:—

- (i) the Central Government;
- (ii) the Crown Representative;
- (iii) any Provincial Government;
- (iv) the Government of any Indian State;
- (v) the Government of the French or Portuguese Settlements bounded by India;

- (vi) any local authority in British India exempted from the operation of sub-section (1) by order of the Central Government or of a Provincial Government;
- (vii) any local authority established or continued by the authority of the Crown Representative exempted from the operation of sub-section (1) by order of the Central Government;
- (viii) any local authority in an Indian State wherein policies of insurance are required by provision of law to be taken out in relation to the use of motor vehicles, which has been exempted from the operation of such provision."

4. In section 95 of the said Act,—

(a) in sub-section (1)—

- (i) in clause (a), after the word insurer, the words and figures "or by a co-operative society allowed under section 108 to transact the business of an insurer" shall be inserted;
- (ii) in clause (b), after the words "in a public place" the words "in British India or in a reciprocating territory" shall be inserted;
- (iii) in the proviso, the words, brackets and figure "except as may be otherwise provided under sub-section (3)" shall be omitted;
- (iv) in clause (i) of the proviso, after the word "employment", where it occurs for the second time, the following shall be inserted, namely :—

"other than a liability arising under the Workmen's Compensation Act, 1923, in respect of the death of, or bodily injury to, any such employee—

- (a) engaged in driving the vehicle, or
 - (b) if it be a public service vehicle, engaged as a conductor of the vehicle or in examining tickets on the vehicle, or
 - (c) if it be a goods vehicle, being carried in the vehicle,"
- (b) for clause (a) of sub-section (2) the following clause shall be substituted, namely :—

"(a) where the vehicle is a goods vehicle, a limit of twenty thousand rupees in all, the liabilities, if any, arising under the Workmen's Compensation Act, 1923, in respect of the death of, or bodily injury to, employees other than the driver being carried in the vehicle being limited to six such employees ; ";

(c) sub-section (3) shall be omitted ;

(d) in sub-section (4), the words "or a cover note" shall be omitted.

5. In section 96 of the said Act,—

- (a) in sub-section (1), the words "or a cover note" shall be omitted ;

Amendment of
section 95, Act IV
of 1939.

Cl. 3 of 2nd
Bill.

Amendment of
section 96, Act IV
of 1939.

Cl. 69 (a) of
1st Bill.

Cl. 4 (a) of
2nd Bill.

(b) after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) Where any such judgment as is referred to in sub-section (1) is obtained from a Court in a reciprocating territory, the insurer (being an insurer registered under the Insurance Act, 1938 (V of 1938), and whether or not he is registered under the corresponding law of the reciprocating territory) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1) as if the judgment were given by a Court in British India :

Provided that no sum shall be payable by the insurer in respect of any such judgment unless, before or after the commencement of the proceedings in which the judgment is given, the insurer had notice through the Court in the reciprocating territory of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating territory, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).”;

Cl. 60 (b) of
1st Bill.

(c) in sub-section (3), the words “or cover note” shall be omitted ;

(d) in sub-section (6),—

(i) after the word, brackets and figure “sub-section (2)” where they first occur, and after the word, brackets and figure “sub-section (1)” the words, brackets, figure and letter “or sub-section (2A)” shall be inserted ;

(ii) after the word, brackets and figure “sub-section (2)” where they last occur, the words “or in the corresponding law of the reciprocating territory, as the case may be” shall be inserted.

6. In section 102 of the said Act, the words “or cover note” shall be omitted.

Amendment of
section 102, Act
IV of 1939.

Cl. 61 of 1st
Bill.

Amendment of
section 106, Act
IV of 1939.

Cl. 62 of 1st
Bill.

Cl. 6 of 2nd
Bill.

Cl. 6 of 2nd
Bill.

7. In section 106 of the said Act,—

(a) in sub-section (1), after the words “in uniform”, the words “authorised in this behalf by the Provincial Government” shall be inserted ;

(b) the provisos to sub-section (1) and sub-section (2) shall be omitted ;

(c) after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) No person shall be liable to conviction under sub-section (1) or sub-section (2) by reason only of the failure to produce the certificate of insurance if, within seven days from the date on which its production was required under sub-section (1) or, as the case may be, from the date of occurrence of the accident, he produces the certificate at such police station as may have been specified by him to the police officer who required its production or, as the case may be, to the police officer at the site of the accident or to the officer in charge of the police station at which he reported the accident :

Provided that, except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to the driver of a transport vehicle."

8. In section 108 of the said Act,—

Amendment of
section 108 Act
IV of 1939.

(a) in sub-section (1),—

(i) in the opening paragraph for the words "public service vehicle" the words "transport vehicle" shall be substituted; and the words "as if the society were an authorised insurer" shall be omitted;

(ii) in clause (a) after the words "members of" the word^s, Cl. 6(a) (ii) of "and insured with," shall be inserted;

(iii) for clause (b) the following clause shall be substituted, Cl. 6(a) (iii) of 2nd Bill. namely :—

"(b) the insurance business of the society shall except to the extent permitted under clause (cc) be limited to transport vehicles owned by its members, and its liability shall be limited as specified in sub-section (2) of section 95";

(iv) in clause (c) for the words "a prescribed amount" the words New. "such amount as may be specified by the Provincial Government" shall be substituted;

(v) after clause (c) the following clause shall be inserted, New. namely :—

"(cc) the society may, if permitted by the Provincial Government and subject to such conditions and limitations as may be imposed by it, accept reinsurance from other societies allowed to transact the business of an insurer under this section;"

(vi) in sub-clause (i) of clause (f) the words, brackets and letter Cl. 6 (a) (iv) of "clause (b) of" shall be omitted; 2nd Bill.

(vii) for clause (h), the following clause shall be substituted, Cl. 63 of 1st Bill. namely :—

"(h) the society shall, in respect of any business transacted by it of the nature referred to in clause (i) of the proviso to sub-section (1) of section 95, be deemed to be an insurer within the meaning of sub-section (1) of section 10 and sub-section (6) of section 13 of the Insurance Act (1938) (V of 1938).";

(b) for sub-section (2), the following sub-section shall be substituted, namely :— CL 6 (b) of 2nd Bill.

"(2) The provisions of the Insurance Act, 1938, relating to the winding up of insurance companies shall, to the exclusion of any other law inconsistent therewith and subject to such modifications as may be prescribed, apply to the winding up of a co-operative society allowed to transact the business of an insurer under this section as if it were an insurance company; but save as hereinbefore provided, the Insurance Act, 1938, shall not apply to any such society."

9. In clause (c) of sub-section (2) of section 111 of the said Act after the words "certificates of insurance" the words "mutilated Cl. 64 of 1st defaced," shall be inserted. IV of 1939. Amendment of section 111, Act IV of 1939.

The following Report of the Select Committee on the Bill further to amend the motor Vehicles Act, 1939, was presented to the Legislative Assembly on the 3rd February, 1947.

We, the undersigned members of the Select Committee to which the Bill further to amend the Motor Vehicles Act, 1939, was referred, have considered the Bill and have now the honour to submit this, our Report, with the Bill as amended by us annexed thereto.

Clause 2, sub-clause (c).—We have excluded motor cycles and invalid carriages from the category of light motor vehicles as well as from the category of medium motor vehicles, as it is more convenient to regard them as separate classes by themselves, both for the purpose of issuing driving licences under Chapter II and for the purpose of limiting speeds under the Eighth Schedule. Consequential amendments have been made wherever necessary in subsequent clauses of the Bill.

Sub-clause (f).—We have substituted "seven persons" for "six passengers" in the definition of "omnibus", firstly because small station wagons are constructed to carry seven persons besides the driver and it is not necessary to treat them as omnibuses under the Act, and secondly, the word 'passengers' is liable to be interpreted as meaning fare-paying passengers which is not intended.

Sub-clause (g).—The words "as permissible for that vehicle" occurring in the definition of "registered axle weight" should not, in our opinion, be omitted, but should be amended to read "as permissible for that axle."

Clause 4, sub-clause (a).—We consider it undesirable from the safety point of view further to relax the provisions of sub-section (6) of section 7 of the Act as originally proposed in this sub-clause. The existing provisos to the sub-section should stand with the slight amendment suggested by us.

Clause 9.—In the second proviso to the proposed sub-section (3A), we consider the period of four years to be too long and have reduced it to three.

Clause 11, sub-clause (b).—We have made it clear that in deciding an appeal under sub-section (2) of section 13 an opportunity of being heard should be given to the appellant as the authority making the order.

Clause 15.—The addition proposed in this clause is more appropriate to section 24 than to section 23, and we have therefore included it in clause 16.

Clause 16.—The proposed sub-section (1A) of section 24 has been revised so as to make it clear that the registration of a motor vehicle in the name of one of several joint owners is only for the purposes of the Act and does not in any way affect the interests of the others in the vehicle.

Clause 17.—The proposed amendment of sub-section (1) of section 25 is intended to authorise motor dealers to issue temporary certificates of registration in respect of new vehicles sold by them. Since it would obviously be inconvenient to authorise them by rules made under section 41, we have modified the proposed amendment so as to enable authorisation to be made by a prescribed authority, e.g., Regional Transport Authority or a registering authority, instead of by rules.

Clause 20.—We consider that an owner of transport vehicles who makes an alteration in registration certificate under the new proviso to sub-section (1) of section 32 should be required to intimate the alteration to the registering authority within whose jurisdiction he resides, and that authority, if it is not

the original registering authority, should communicate the details to the latter authority under sub-section (2). We have revised the proviso accordingly and suggested an amendment to sub-section (2).

Clause 21.—The amendment originally proposed in sub-section (5) of section 34 is in our opinion unnecessary and has been omitted from the revised clause. The first amendment proposed in sub-section (3) has been formally modified.

Clause 24.—The proposed maximum and minimum limits for the period for which certificates of fitness should be issued are in our opinion unduly short. We have increased them to two years and six months, respectively. The authority to determine the period of effectiveness for such certificates should normally be the Provincial Transport Authority and we have provided accordingly.

Clause 27.—The existing first proviso to section 42 (1) which makes it compulsory for stage carriage permit to authorise the use of the vehicle as a contract carriage serves a useful purpose and should not in our opinion be omitted. We have accordingly deleted the amendment proposed in the original sub-clause (a). The substitution of "seven persons" for "six passengers" in the last line of the clause is for the reasons mentioned above against sub-clause (f) of clause 2.

Clause 28.—While we are in general agreement with the amendments to section 43 proposed in the clause as originally drafted we have made a few important modifications in sub-clause (a). The minimum period to be allowed for consideration of the draft directions has been increased from one to two months. Secondly, provision is made for giving an opportunity of being heard to those persons who have submitted objections before the specified date. Thirdly, we consider that some indication should be given in the section as to what would normally be regarded as long distance goods traffic and what would not be so regarded. We recognise, however, that any general criterion might not be suitable in particular cases and have accordingly provided that a distance of less than 150 miles should not be regarded as a long distance unless the Provincial Government is satisfied in any particular case that there are special reasons for so regarding it. Lastly, in regard to the agreements referred to in clause (iii) of sub-section (1), we consider that all such agreements prior to their coming into operation should have been laid before the Legislatures concerned for at least thirty days and it is only then that the Provincial Government may issue directions giving effect to those agreements.

Clause 29.—We have made substantial alterations in this clause which relates to the constitution and powers of Provincial and Regional Transport Authorities.

(i) The provision made in the Bill as introduced for the appointment of a Provincial Transport Commissioner has evoked a considerable number of objections. It was not intended that the Provincial Governments should be empowered to transfer the powers and functions of the Provincial Transport Authorities under the Act to the Provincial Transport Commissioners, but this would be possible under the provision as drafted. The existing sub-section (5) of section 44 empowers a Provincial Transport Authority to delegate its powers and functions to prescribed authorities, which, in our opinion, is sufficient for all practical purposes. We have accordingly omitted the proposed sub-section relating to Provincial Transport Commissioners.

(ii) The main differences between the revised sub-sections (2) to (2F) and sub-sections (2A) to (2D) as originally drafted are :—

- (a) a requirement that the number of official members in a Provincial or Regional Transport Authority should not exceed the number of non-official members ;
- (b) a provision that the persons appointed to a Provincial Transport Authority to represent railway administrations, road motor transport undertakings and, in the Provinces of Bengal, Bihar and Assam inland water transport undertakings should be entitled to take part in the proceedings of the Authority but should not be entitled to vote : in other words, these persons would be functioning mainly in an advisory capacity ;
- (c) a provision that in appointing persons to represent road motor transport undertakings preference should be given to those undertakings in which the railway administrations have no financial interest, since the railway administrations would be adequately represented by the railway representative or representatives and should not, in our view be allowed to get further indirect representation through road transport undertakings in which they might have a controlling interest ; and
- (d) that the Chairman of a Provincial or Regional Transport Authority should not be permitted by rules to discharge the duties of the Authority in respect of permits for public carriers.

(iii) The amendment proposed in sub-section (3) by sub-clause (b) (ii) of the clause is in our view undesirable. A Provincial Transport Authority is at present authorised to perform the duties of a Regional Transport Authority in respect of a route common to two or more regions. This appears to us to be suitable and sufficient, and we do not consider it proper to authorise a Provincial Transport Authority to exclude a Regional Transport Authority altogether, either generally or in respect of such routes as the former may think fit to specify.

Clause 31.—The reference to “prospective services” in clauses, (c), (d) and (e) of the proposed sub-section (1) of section 47 as originally drafted appears to us to be capable of a much wider construction than was perhaps intended. We have, therefore, modified these clauses so as to make them more precise. Clause (g) of the sub-section as originally drafted appears to have been intended to take the place of clause (a) of the existing section 48. We consider, however, that the Regional Transport Authority should continue to have the specific power of limiting the number of stage carriages in the region or on any specified route in order to prevent uneconomic competition. A sub-section has accordingly been added to section 47 on the same lines as clause (a) of the present section 48, and clause (g) has been omitted from the proposed sub-section (1) of section 47 as originally drafted.

Clause 32 : proposed section 48.—The proviso to sub-section (1) should, in our opinion, be unqualified. The Regional Transport Authority should not in any circumstances grant a permit made valid for a route not specified in the application.

In sub-section (3), clause (v) has been replaced by a clause on the same lines as the existing provision in section 48. We do not consider it desirable to leave to the Regional Transport Authorities the specification of areas and place,

outside municipal limits where passengers or goods may not be taken up or set down. This should continue to be done by rules as at present.

We have added a proviso to the first part of clause (*ix*) with a view to permit the continued use of vehicles for a short period after the publication of approved specifications, although the vehicles may not conform to those specifications.

Clause (*xviii*), as originally drafted, has been omitted from the sub-section, as it is an important matter requiring substantive and detailed provision; *vide* new clause 47A.

Clause (*xx*), as originally drafted, is in our opinion a condition which would be too onerous for most stage carriage services, in particular, the provision about constructing and maintaining bus stations and shelters of a specified design.

Clause (*xxi*) as originally drafted should be limited to bus stations and shelters maintained by Government or a local authority and should not extend to privately owned bus stations and shelters. We have accordingly suggested revised conditions in clauses (*xviii*) and (*xix*).

It is obviously desirable that stage carriage services should not be allowed to discriminate among persons offering to travel or to give undue preference or advantage to any particular person or class of persons. We have made provision for this in revised clause (*xv*). A few other clarificatory amendments have been made in the sub-section.

Clause 33.—It is unnecessary that there should be a separate permit for every vehicle used as a contract carriage. A further amendment of section 49 is accordingly suggested providing for a single permit in respect of several motor vehicles intended to be used as contract carriages. The other changes made in the clause are formal.

Clause 35.—An addition has been made in clause (*ii*) of sub-section (2) of the proposed section 51 to enable a person who hires a contract carriage for a particular journey and takes it out of a specified area, to extend or modify the contract, e.g., for returning by the same vehicle to the starting area or for taking him to another destination in continuation of the journey originally contracted for.

Clause 36.—Further amendments have been proposed in section 53 to bring it into line with the analogous sections 47 and 48, 50 and 51, and 55 and 56, as revised by this Bill.

Clause 37.—We do not see the necessity for asking an applicant to refer to any evidence which he may wish to adduce regarding his prospective business as suggested in the original clause (*f*) of the proposed section 54.

Clause 38.—The amendments made in this clause follow those made in clause 31, and are for the same reasons.

Clause 40.—We consider that it should be permissible to apply for contract carriage permits at any time as at present, and sub-section (1) of section 57 should not be amended as originally proposed. The same procedure should, however, be followed in dealing with those applications as is prescribed in sub-section (3) for stage carriage permits and public carriers permits.

Where the full number of vehicles required to serve a particular region, route or area has already been reached, the elaborate procedure laid down in sub-section (3) of section 57 would be unnecessary. A proviso has accordingly been added to the sub-section enabling the Regional Transport Authority to reject the application summarily in such cases.

Clause 41.—We do not think it desirable at the present juncture to increase the maximum period of validity of a permit without renewal from five to ten years, as such an increase is likely to hamper any programme that Government may have with regard to the nationalisation of road transport services.

Clause 42A.—The Act at present leaves the form of permit to be regulated by rules made by the Provincial Government. We think it desirable to lay down a general provision for the guidance of Provincial Governments in this matter in order to secure a certain measure of uniformity. The prescription by law of several "parts B", where the permit covers more than one vehicle, will also facilitate the procedure as regards reducing the number of vehicles covered by the permit as a penalty for which provision is proposed to be made in clause 43.

Clause 43.—Section 60 of the Act at present provides only for the cancellation or suspension of permits. In some cases the power to impose the lesser penalty of reducing the number of vehicles or routes covered by a particular permit is useful. We have accordingly suggested the necessary amendments of section 60.

Clause 46.—This clause as originally drafted provided for the omission of clauses (c) and (g) from section 64 and for the insertion of two new clauses giving the right of appeal in cases arising under sub-section (1) or sub-section (2) of section 59 or under clause (xviii) of sub-section (3) of section 48, as originally proposed in clause 32 of the Bill. The omission of clause (c) of section 64, which gives the right of appeal to any person aggrieved by the refusal to transfer the permit to the person succeeding on the death of the holder of the permit—*vide* section 61 (2)—was apparently inadvertent. On the other hand, in view of the omission of the originally proposed clause (xviii) from sub-section (3) of section 48, the proposed clause (cc) has to be omitted. We have accordingly revised clause 46 providing for the omission of clause (g) from section 64 and the substitution therefor of two new clauses giving the right of appeal in cases under sub-section (1) or sub-section (2) of section 59 or under the proposed sub-section (1A) of section 60.

Clause 47.—We have suggested the addition of a sub-section to section 65 modelled on an existing provision in the United Kingdom Road Traffic Act of 1930. The comments received from some of the larger transport companies indicate that especially in the case of urban services more elasticity is required in the administration of this section. There are likely to be special cases which cannot conveniently be covered by the general provisions of sub-section (). The proposed sub-section (6) confers the necessary power of relaxation on the Provincial Governments subject to suitable safeguards.

Clause 47A.—In clause (xviii) of sub-section (3) of Section 48, as originally proposed in clause 32 of the Bill, it was proposed that Regional Transport Authorities should be authorised to insert a condition in any stage carriage permit that the holder of the permit would be liable in certain circumstances on the orders of the authority to pay a penalty not exceeding the prescribed maximum. After carefully considering this proposal we think that provision should be made for this purpose in a substantive section. In the proposed section 66A we have indicated more precisely the circumstances in which the Regional Transport Authorities should exercise this punitive power, the procedure to be followed by them in exercising it, and the manner in which any penalty imposed by them may be realised, and have also provided for an

appeal to a regular Court instead of to a prescribed authority as originally proposed in the Bill.

Clause 49.—The omission of the original sub-clause (d) is consequential. In the proposed clause (ww) we have omitted the words "and the regulation of the activities of" as they confer a power much beyond requirement.

Clause 50.—The proviso suggested in sub-clause (1) is on the same lines as the proviso suggested in clause 52.

Clause 51.—Even if sub-section (1) of section 72 may hereafter become superfluous in view of the National Highway Scheme, we see no reason why it should be omitted at present. The proviso to the sub-section is, however, clearly otiose and may be omitted.

Clause 53.—We have suggested two additional sub-sections to section 75 in order to remove a lacuna in the law. Wilful removal of, or tampering with, a traffic sign is made an offence punishable under section 112 of the Act, and a statutory duty is thrown on any person accidentally causing damage to a traffic sign to report the matter to a police officer or at a police station as soon as possible.

Clause 55.—The expression "substantial damage to property" used in sub-clause (a) being vague, we have suggested that, when damage to property to the amount of twenty-five rupees or more is caused, the requirements of section 89 should be complied with by the driver.

The substitution of "a police station" for "the nearest police station" in clause (b) of section 89 will lead to an undesirable delay in reporting, as well as administrative difficulties. We have, therefore, suggested that the report should be made either at the nearest police station or, if the driver of the vehicle is involved in the accident continues his journey thereafter, at the next police station lying on or near his route.

Clauses 57 to 64.—These clauses amend various sections in Chapter VIII of the Act relating to the insurance of motor vehicles against third party risks. Since the Motor Vehicles (Second Amendment) Bill which has also been referred to us for consideration and report, deals with the same Chapter, and in several cases with the same sections, we consider that it would be more convenient to delete clauses 57 to 64 from this Bill and incorporate the amendments in the second Bill, in order to make the latter comprehensive so far as Chapter VIII of the Act is concerned.

Clause 71.—Item (1) (c) of the revised Eighth Schedule has inadvertently reduced the maximum speed limit for public service vehicles which are heavy motor vehicles from 30 miles per hour to 25 miles per hour. It has been represented that this would very seriously interfere with public transport services which are working to a schedule based on the 30 mile speed limit, and cause inconvenience to the public. We have therefore restored the original maximum limit of 30 miles in the case of public service vehicles which are heavy motor vehicles.

A few other amendments of a formal or consequential nature have also been made.

The Bill was published in the *Gazette of India*, Part V, dated 20th April 1946.

3. We think that the Bill has not been so altered as to require re-publications, and we recommend that it be passed as now amended.

*JOHN MATTHAI.
SRI KRISHNA DUTT PALIWAL.
N. V. GADGIL.
THAKUR DAS BHARGAVA.
*N. NARAYANAMURTHI.
*SATYAPRIYA BANERJEE.
*M. A. F. HIRTZEL.
D. M. BHATTACHARYYA.
MOHAMMAD YAMIN KHAN.
SIDDIQ ALI KHAN.
GHULAM BHIK NAIRANG.
MUHAMMAD NAUMAN.
*MOHAN LAL SAKSENA.
*M. ANANTHASAYANAM AYYANGAR.

NEW DELHI ;
The 3rd February, 1947.

MINUTES OF DISSENT

I

I do not agree with the majority view of the Committee—

(a) that at the end of sub-clause (a) of clause 28 (Section 43) there should be added a proviso to the effect that no distance of less than 150 miles should ordinarily be regarded as long distance, and

(b) that clause 29 (b) (ii) (Section 44) should be omitted. Power to restrict long distance traffic by road is required in the public interest to prevent uneconomic competition with the railways and, as explained in the following extract from paragraph 12 of the Report of the Technical Sub-Committee to the Subject Committee on Transport on the future of road transport and road-rail relations, there is possibility of such uneconomic competition where the distance exceeds 50 miles :—

" Given reasonable control of road use in the interests of the community and an adequate contribution towards the cost of the roads, we consider that any natural transfer of short-haul goods traffic up to a lead of about 50 miles, or up to about 100 miles where rail transhipment is involved, would constitute an improvement of transport facilities which should be encouraged.

Beyond those approximate distances, however, the matter becomes one of public need, which may be often opposed to the desire of private gain by transport operators or traders, and we support the view that there is in this case no natural or rational basis of correlation of the two forms of transport without interference by the State to an extent unnecessary in the case of passenger transport."

I suggest that in the public interest the distance should not be greater than 50 miles.

2. Clause 29 (b) (ii) of the Bill seeks to empower a Provincial Transport Authority to take over any specified duties of a Regional Transport Authority. Road transport is everywhere being reorganised and large companies or other concerns, in which both the Central and the Provincial Governments will hold a financial interest, and whose operations may extend over several regions, are likely to emerge. As section 44 (3) stands at present, it was designed to meet the case of petty operators. If the wish of the Committee is carried out, the Provincial Transport Authority will be able to perform the duties of a

* Subject to a minute of dissent.

Regional Transport Authority only in respect of a route common to two or more regions, and consequently a large single concern may have to be controlled partly by two or more Regional Transport Authorities and partly by the Provincial Transport Authority. Such a procedure would seem likely to lead to confusion. It would appear inappropriate that a concern in which Government will have an interest should be under the control of any but the senior body, the Provincial Transport Authority. By enabling the Provincial Transport Authority to assume responsibility for such concerns it would be possible to reduce the cost of control and economise in manpower. I therefore consider that the amendment proposed in the Bill should be allowed to stand.

JOHN MATTHAI.

NEW DELHI ;
The 3rd February, 1947.

II

As some Provincial Governments have themselves started motor transport services and there are proposals in other provinces to start similar services by Provincial Governments and Local Boards, we are of the opinion that in clause 41 the proviso to sub-section 2 of Section 58 should be so modified as to apply only to cases in which the applicants are all private parties and that in all cases where the Central Government, the Provincial Government or a local authority applies, either in the first instance or by way of renewal it should be given preference over applications by private persons.

M. ANANTHASAYANAM AYYANGAR.
MOHAN LAL SAKSENA.
SATYAPRIYA BANERJEE.
N. NARAYANAMURTHI.

NEW DELHI ;
The 3rd February, 1947.

III

In general I support the recommendations of the Select Committee regarding the control of motor vehicles. As regards the control of road traffic however, I consider that, in the present state of the road-rail controversy, the powers sought by the executive in the original Bill and substantially confirmed by the Select Committee are unjustifiably wide and dangerously vague. I am apprehensive lest the mere existence of these powers should so discourage the growth of responsible road transport enterprise as to throw upon Government, whether at the Centre or in the Provinces, the entire burden not only of maintaining existing services but of the expansion which is so urgently needed for the general advancement of the country folk. I question whether such a result would be consistent with Government's heavy commitments, existing and potential, in money and man-power in other directions. The Governments in concern should, therefore, in my view be required first to state the financial implications of their road transport policies in relation to their road programmes and to the vital and urgent need to develop communications throughout the country before further powers are added to those wide powers already contained in the Motor Vehicles Act, 1939.

M. A. F. HIRTZEL.

NEW DELHI ;
The 3rd February, 1947.

L. A. BILL NO. 38 OF 1946**BILL AS AMENDED BY THE SELECT COMMITTEE)**

(*Words underlined or sidelined indicate the amendments suggested by the Committee; asterisks indicate omissions.*)

**A
BILL**

further to amend the Motor Vehicles Act, 1939

WHEREAS it is expedient further to amend the Motor Vehicles Act, 1939 (IV of 1939), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Motor Vehicles (Amendment) Act, 1947.

2. Amendment of section 2, Act IV of 1939.—In section 2 of the Motor Vehicles Act, 1939 (hereinafter referred to as the said Act),—

(a) clause (4) shall be omitted;

(b) for clause (9) the following clause shall be substituted, namely:—

‘(9) “heavy motor vehicle” means a transport vehicle or omnibus the registered laden weight of which, or a motor car or tractor the unladen weight of which, exceeds 18,000 pounds avoirdupois;’

(c) for clauses (13) and (14) the following clauses shall be substituted, namely:—

‘(13) “light motor vehicle” means a transport vehicle or omnibus the registered laden weight of which, or a motor car or tractor the unladen weight of which, does not exceed 6,000 pounds avoirdupois.

* * * * *

(14) “medium motor vehicle” means any motor vehicle other than a motor cycle, invalid carriage, light motor vehicle, heavy motor vehicle or road-roller;’;

(d) for clause (16) the following clause shall be substituted, namely:—

‘(16) “motor car” means any motor vehicle other than a transport vehicle, omnibus, road roller, tractor, motor cycle or invalid carriage;’

(e) in clause (18), for the words “used solely upon the premises of the owner” the words “a vehicle of special type adapted to be used only in a factory or other enclosed area” shall be substituted;

(f) after clause 18, the following clause shall be inserted, namely:—

‘(18A) “omnibus” means any motor vehicle constructed, or adapted to carry more than seven persons excluding the driver;’

(g) in clause (26), after the word “any” the words “axle of a” shall be inserted, and for the words “that vehicle” the words “that axle” shall be substituted;

(h) in clause (30), the words and figures “the unladen weight of which does not exceed 18,000 pounds avoirdupois” shall be omitted;

(i) for clause (33) the following clause shall be substituted, namely:—

‘(33) “Transport vehicle” means a public service vehicle or a goods vehicle;’.

3. Amendment of section 3, Act IV of 1939.—To section 3 of the said Act the following sub-section shall be added, namely:—

“(3) For the purposes of sub-section (1) a licence shall be deemed to be effective during the period of fifteen days referred to in sub-section (3) of section 11, but the subsequent renewal of a licence in pursuance of an application for renewal made after the date of the expiry of that period shall not operate to condone any contravention of this section occurring after that date.”

4. Amendment of section 7, Act IV of 1939.—In section 7 of the said Act,—

(a) in the first proviso to sub-section (6), for the words “motor car” at both places where they occur, the words “light motor vehicle” shall be substituted;

(b) for sub-section (7) the following sub-section shall be substituted, namely:—

“(7) The test of competence to drive shall be carried out in a vehicle of the class to which the application refers, and for the purposes of Part I of the test,—

(a) a person who passes the test in driving a heavy motor vehicle shall be deemed also to have passed the test in driving any medium motor vehicle or light motor vehicle;

(b) a person who passes the test in driving a medium motor vehicle shall be deemed also to have passed the test in driving any light motor vehicle;—

(c) in the proviso to sub-section (8) for the words “motor car” the words “light motor vehicle” shall be substituted, and to the said sub-section the following further proviso shall be added, namely:—

“Provided further that the licensing authority shall not grant a licence to an applicant who has previously held a licence granted under this Act unless it is satisfied that there is good reason for the applicant’s inability to obtain a duplicate copy of his former licence.

5. Amendment of section 8, Act IV of 1939.—In sub-section (2) of section 8 of the said Act, for clauses (b) to (k) (both inclusive) the following clauses shall be substituted, namely:—

“(b) invalid carriage,

(c) light motor vehicle, * * * *

(d) medium motor vehicle,

(e) heavy motor vehicle,

(f) road roller,

(g) motor vehicle of a specified description.”

6. Insertion of new section 8A in Act IV of 1939.—After section 8 of the said Act the following section shall be inserted, namely:—

“8A. Additions to licences.—(1) Any person holding a licence issued under this Act who is not for the time being disqualified for holding or obtaining a licence may apply in Form AA as set forth in the First Schedule to the licensing authority having jurisdiction in the area in which he ordinarily resides or carries on business or, if the application relates to a licence to drive as a paid employee, in which the employer resides or carries on business, for the addition of another class of motor vehicle to the licence.

(2) The provisions of section 7 shall apply to an application under this section as if the application were for the grant of a licence under that section to drive the class of motor vehicle which the applicant desires to be added to his licence:

Provided that the provisions of sub-sections (3) and (4) of that section shall not apply where the applicant is the holder of a licence to drive as a paid employee or to drive a transport vehicle.

(3) No fee other than a fee for the test of competence to drive shall be charged for an addition to a licence under this section."

7. Amendment of section 9, Act IV of 1939.—In section 9 of the said Act,—

(a) in sub-section (2), for the words and figures "the International Convention relative to motor traffic concluded at Paris on the 24th day of April, 1926, or of any Convention modifying the same," the words "any international convention relative to motor traffic to which the Central Government is for the time being a party," shall be substituted;

(b) in sub-section (3), the word "or" at the end of clause (b) shall be omitted, and to the said sub-section the following clause shall be added, namely:—

"(d) specify the conditions subject to which the Regional Transport Authority or prescribed authority, as the case may be, may make or refuse to make such specification or countersignature as aforesaid."

8. Amendment of section 10, Act IV of 1939.—In section 10 of the said Act, for the words "last renewal" the words and figures "from the anniversary of that date immediately preceding the date on which it is renewed under section 11" shall be substituted.

9. Amendment of section 11, Act IV of 1939.—In section 11 of the said Act,—

(a) to sub-section (1), the following shall be added, namely:—

"with effect in all cases, whether the application for renewal is made within the time specified in sub-section (3) or otherwise, from the date of its expiry.;"

(b) for sub-section (3) the following sub-sections shall be substituted, namely:—

"(3) Where an application for the renewal of a licence is made previous to, or within a period of fifteen days after, the date of its expiry, the fee for the renewal shall be three rupees.

(3A) Where an application for the renewal of a licence is made more than fifteen days after its expiry, the licensing authority shall, on payment of a fee of five rupees, renew the licence * * * * up to the anniversary of its issue immediately following the date of such renewal:

Provided that if the licensing authority is satisfied that the holder was prevented by good cause from applying within the time specified in sub-section (3), the fee for renewal shall be three rupees:

Provided further that if the application is made more than three years after the licence has ceased to be effective under the provisions of section 10, the licensing authority may refuse to renew the licence unless the applicant undergoes and passes to its satisfaction the test of competence to drive specified in the Third Schedule."

10. Amendment of section 12, Act IV of 1939.—(1) In section 12 of the said Act,—

(a) for the word "a" where it first occurs the word "any" shall be substituted;

(b) the words "issued by it" shall be omitted.

(2) To the said section 12 the words "and where a licensing authority revokes a licence not issued by it, it shall inform the licensing authority which issued the licence of its revocation" shall be added.

11. Amendment of section 13, Act IV of 1939.—In section 13 of the said Act,—

(a) in sub-section (1), for the words "the licensing authority refuses to issue or revokes or refuses to renew any licence" the words, brackets and figures "an authority refuses to issue or renew, or revokes, any licence, or refuses to add a class of motor vehicle to any licence, or to make a specification or countersignature such as is referred to in sub-section (3) of section 9," shall be substituted;

(b) for sub-section (2) the following sub-section shall be substituted, namely:—

"(2) Any person aggrieved by an order referred to in sub-section (1) may, within thirty days of the service on him of the order, appeal to the prescribed authority, who shall decide the appeal after giving such person and the authority making the order an opportunity of being heard * * * * and the decision of the appellate authority shall be binding on the authority making the order.";

(c) sub-section (3) shall be omitted.

12. Amendment of section 20, Act IV of 1939.—In sub-section (3) of section 20 of the said Act,—

(a) for the word "new" the words "copy of the" shall be substituted;
 (b) after the word "clean" the words "copy of the" shall be inserted.

13. Amendment of section 21, Act IV of 1939.—In clause (c) of sub-section (2) of section 21 of the said Act, after the words "in driving" the words "or whose licences have been surrendered" shall be inserted.

14. Amendment of section 22, Act IV of 1939.—In section 22 of the said Act, the brackets and figure "(1)" and sub-section (2) shall be omitted.
 * * * * *

16. Amendment of section 24, Act IV of 1939.—(1) In section 24 of the said Act, after sub-section (1) the following sub-section shall be inserted, namely:—

"(1A) Where a motor vehicle is jointly owned by more than one person, the name of only one person shall be entered in the certificate of registration as the registered owner of the vehicle for the purposes of this Act, and only the name to be so entered shall be stated against entry 1 in the said Form E."

(2) To the said section 24 the following sub-section shall be added, namely:—

"(4) A Provincial Government may, by rules made under section 41, require that within a prescribed period certificates of registration issued before a prescribed date shall be presented to a registering authority for the entry therein of particulars of the colour or colours of the body, wings and front end of the vehicles to which they respectively relate."

17. Amendment of section 25, Act IV of 1939.—In sub-section (1) of section 25 of the said Act, after the word "authority" the words "or such other authority or person as may be appointed by a prescribed authority" shall be inserted.

18. Amendment of section 28, Act IV of 1939.—In section 28 of the said Act,—

(a) in sub-section (2),—

(i) for the words and figures "the International Convention relative to motor traffic concluded at Paris on the 24th day of April, 1926, or of any Convention modifying the same," the words "any international convention relative to motor traffic to which the Central Government is for the time being a party," shall be substituted;

(ii) the words and figures "section 28 and" shall be omitted;

(iii) for the proviso the following proviso shall be substituted, namely:—

"Provided that there is in force in respect of the vehicle a certificate issued by such competent authority conforming to and containing substantially the same particulars as the certificate of registration in Form G as set forth in the First Schedule and not assigning to the vehicle a standard of performance in any respect materially greater than that assignable or permitted under this Act or the rules made thereunder for a motor vehicle of like make and model in the province in which the vehicle is to be driven";

(b) in sub-section (3), after the words "British India" the words "and the provisions of this Act shall be applicable thereto," shall be inserted;

(c) in sub-section (5), for the words "certificates of registration generally" the words "certificates generally" shall be substituted.

19. Amendment of section 29, Act IV of 1939.—In sub-section (1) of section 29 of the said Act, after the words "twelve months," the words and figures "or when a motor vehicle not registered in British India by virtue of the provisions of section 28 has been kept in British India for a period exceeding twelve months," shall be inserted.

20. Amendment of section 32, Act IV of 1939.—In section 32 of the said Act,—

(a) to sub-section (1), the following further proviso shall be added, namely:—

"Provided further that, if permitted by order in writing of the Provincial Government or of an authority authorised in this behalf by the Provincial Government, the owner of not less than ten transport vehicles may, where the engine number of any such vehicle is altered by reason of the replacement of the engine or part thereof bearing the number, himself make the necessary entry in a certificate of registration without making a report as aforesaid, but shall within fourteen days of making the entry intimate the details thereof to the registering authority within whose jurisdiction he resides.";

(b) in sub-section (2), for the words "authority making any such entry" the words "authority, making, or receiving intimation of, any such entry" shall be substituted.

21. Amendment of section 34, Act IV of 1939.—In sub-section (3) of section 34 of the said Act,—

(a) after the words "wish to make" the words and brackets "(such opportunity being given by sending a notice by registered post acknowledgment due, to the owner at his address for the time being entered in the certificate of registration of the vehicle)" shall be inserted;

(b) after the words "condition that" the words "it is incapable of being used or" shall be inserted.

* * * * *

22. Amendment of section 35, Act IV of 1939.—In sub-section (2) of section 35 of the said Act, the proviso shall be omitted.

23. Substitution of new section for sections 36 and 37, Act IV of 1939.—For sections 36 and 37 of the said Act, the following section shall be substituted, namely:—

"36. Special provisions in regard to transport vehicles.—(1) The Provincial Government may, by notification in the official Gazette, specify in relation to

any make or model of transport vehicle, other than a motor cab, and in consideration of the size and nature of the tyres fitted to the wheels thereof, the maximum safe laden weight of the vehicle and the maximum safe axle weight of each axle of the vehicle.

(2) There shall not be entered in the certificate of registration of any such vehicle any such laden weight of the vehicle or a registered axle weight of any of its axles in excess of that specified under sub-section (1) in relation to the make or model of the vehicle and to the size and nature of the tyres fitted to its wheels:

Provided that where it appears to a Provincial Government that heavier weights than those so specified may be permitted in a particular locality for vehicles of a particular type, the Provincial Government may by notification in the official Gazette direct that the provisions of this sub-section shall apply with such modifications as may be specified in the notification.

(3) When by reason of any alteration in any such vehicle, including an alteration in the number, nature or size of its tyres, the registered laden weight of the vehicle or the registered axle weight of any of its axles no longer accords with the provisions of sub-section (2), the provisions of section 32 shall apply and the registering authority shall enter in the certificate of registration of the vehicle revised registered weights which accord with the said sub-section.

(4) The Provincial Government may, by rules made under section 41, require that the certificates of registration of any prescribed class of transport vehicles other than motor cabs, registered before a prescribed date shall, within a prescribed period, be presented to a registering authority for revision of any registered weight entered therein in accordance with the provisions of sub-section (2)."

24. Amendment of section 38, Act IV of 1939.—(1) For sub-section (2) of section 38 of the said Act, the following sub-section shall be substituted, namely:—

"(2) Certificates of fitness shall be issued to be effective, subject to the provisions of sub-section (3), for such period, not more than two years or less than six months, as may be determined in respect of any vehicle or class or description of vehicles * * * in accordance with prescribed conditions by the Provincial Transport Authority or such other authority as may be prescribed."

(2) To the said section 38 the following sub-section shall be added, namely:—

"(4) A certificate of fitness issued under this Act shall, while it remains effective, be valid throughout British India, and a Provincial Government may, by notification in the official Gazette, declare that subject to such conditions as may be specified in the notification, certificates of fitness issued by a competent authority in any Indian State so specified or in the French or Portuguese Settlements bounded by India, shall, while they remain effective, be valid in the Province as if they were issued under this Act."

25. Amendment of section 39, Act IV of 1939.—In sub-section (2) of section 39 of the said Act, for the words and letter "of fitness in Form H as set forth in the First Schedule" the words and figure "certifying that the vehicle complies with the provisions of Chapter V and the rules made thereunder" shall be substituted.

26. Amendment of section 41, Act IV of 1939.—In sub-section (2) of section 41 of the said Act,—

(a) in clause (c), for the words "duplicate certificates of registration" the words "certificates of fitness and duplicates of such certificates" shall be substituted;

(b) in clause (e), the words, brackets and figures "the particulars referred to in sub-section (1) of section 37, and" shall be omitted;

(c) in clause (l), for the words "delivery vans" the words "goods vehicles, being light motor vehicles," shall be substituted.

27. Amendment of section 42, Act IV of 1939.—In sub-section (3) of section 42 of the said Act,—

(a) in clause (a), the words "or on behalf of" shall be omitted, and for the words "in connection with the business of an Indian State Railway" the words "for a commercial purpose or for the purposes of a commercial department" shall be substituted;

(b) the word "or" at the end of clause (h) shall be omitted;

(c) for clause (i), the following clauses shall be substituted, namely:—

"(i) except as may be otherwise prescribed, to any goods vehicle, being a light motor vehicle;

(ii) except as may be otherwise prescribed, to any two-wheeled trailer with a registered laden weight not exceeding 1,700 pounds avoirdupois drawn by a motor car constructed for the carriage of not more than seven persons excluding the driver."

28. Amendment of section 43, Act IV of 1939.—In section 43 of the said Act,—

(a) in sub-section (1) for the words, brackets and figures commencing "and after having heard the representatives of the interests affected" and ending "to be applicable throughout the province or within any area or on any route within the province" the following shall be substituted, namely:—

"may from time to time, after publishing a draft in the official Gazette and specifying a date, being not less than two months after such publication, on or after which the draft will be taken into consideration, and after considering any objections received before that date, giving the persons raising them an opportunity of being heard and consulting the Provincial Transport Authority, give directions (which shall be published in the official Gazette) to the Provincial Transport Authority.—

(i) regarding the fixing of fares and freights for stage carriages, contract carriages and public carriers;

(ii) regarding the prohibition or restriction, subject to such conditions as may be specified in the directions, of the conveying of long distance goods traffic generally, or of specified classes of goods, by private or public carriers;

(iii) as may appear to the Provincial Government necessary or expedient for giving effect to any agreement entered into with the Central Government or any other Provincial Government or the Government of any Indian State or of the French or Portuguese Settlements bounded by India relating to the regulation of motor transport generally, and in particular its co-ordination with other means of transport and the conveying of long distance goods traffic:

Provided that—

(a) a distance less than one hundred and fifty miles shall not be regarded as a long distance for the purposes of this sub-section, unless the Provincial Government is satisfied in any particular case that there are special reasons for so regarding it; and

(b) no directions shall be given under clause (iii) for giving effect to an agreement unless the agreement prior to its coming into operation has been laid for not less than thirty days before the Central and Provincial Legislatures concerned."

(b) in sub-section (2), for the word "notification" wherever it occurs the word "directions" shall be substituted;

(c) in sub-section (3),—

(i) for the words "and Regional Transport Authorities" the word "Authority" shall be substituted;

(ii) for the word "notification" in both places where it occurs, the word "direction" shall be substituted.

29. Amendment of section 44, Act IV of 1939.—(1) In section 44 of the said Act,—

(a) for sub section (2) the following sub-sections shall be substituted, namely:—

"(2) A Provincial Transport Authority or a Regional Transport Authority shall consist of a chairman and such number of other members as the Provincial Government may think fit to appoint:

Provided that the number of official members shall not be more than the number of non-official members.

(2A) Any person who is informed that the Provincial Government proposes to appoint him as a member of the Provincial Transport Authority or a Regional Transport Authority shall, unless he is unwilling to accept such appointment, declare in writing whether he has or has not any financial interest, direct or indirect, as proprietor, employee or otherwise, in any transport undertaking, and if he has, the nature and extent of such interest.

(2B) If a person, while he is a member of a Provincial Transport Authority or a Regional Transport Authority, acquires any such interest as is mentioned in sub-section (2A) (whether or not it be in addition to an interest already declared by him), he shall within four weeks of his acquiring the interest declare in writing the nature and extent thereof, and the Provincial Government after taking the matter into consideration may, if it thinks fit, declare that the member has vacated his office.

(2C) Nothing in sub-section (2A) or sub-section (2B) shall apply to an official merely by reason of the fact that the Government employing him has, or acquires, a financial interest in a transport undertaking.

(2D) The Provincial Government may appoint as additional members of the Provincial Transport Authority such number of persons as it thinks fit to represent the railway administrations and an equal number of persons to represent the road motor transport undertakings in the province, preference being given to those undertakings in which the railway administrations have no financial interest:

Provided that if in the provinces of Bengal, Bihar and Assam, any such persons are appointed, at least one more person shall be appointed as an additional member to represent inland steam-vessel companies.

(2E) The additional members appointed under sub-section (2D) shall be entitled to take part in all proceedings of the Provincial Transport Authority, except when under clause (b) of sub-section (3) it performs the duties of a Regional Transport Authority in respect of a particular permit, but shall not in any case be entitled to vote.

(2F) Notwithstanding anything to the contrary contained in this Chapter, the Provincial Government may, by rules made under section 68, provide that the functions of the Provincial Transport Authority or of any Regional Transport Authority in respect of permits for private carriers (other than the cancellation or suspension thereof) shall be discharged by the chairman alone."

(b) in sub-section (3), "after the words "Provincial Transport Authority" the words and figures "shall give effect to any directions under section 43, and subject to such directions and save as otherwise provided by or under this Act," shall be inserted; * * *

(c) in sub-section (4), after the word "shall" the words "in the discharge of its functions under this Act, give effect to and" shall be inserted.

30. Substitution of new section for section 46, Act IV of 1939.—For section 46 of the said Act the following section shall be substituted, namely:—

"**46. Application for stage carriage permit.**—An application for a permit in respect of a service of stage carriages or to use a particular motor vehicle as a stage carriage (in this Act referred to as a stage carriage permit) shall contain the following particulars, namely:—

- (a) the route or routes to which it relates;
- (b) the number, type and seating capacity of the vehicles it is proposed to operate on the route or on the different routes, and the number of spare vehicles that will be maintained as replacements and to meet abnormal seasonal traffic;
- (c) the minimum and maximum number of daily services proposed to be run on each route and the time table of the normal services;
- (d) the fare table, if any, for the different classes of passengers for different stages on each route, or if no such fare table is proposed, the rates of fare per mile per passenger for different classes which it is proposed to charge;
- (e) the weight of luggage per passenger of different classes which it is proposed to carry free of charge, and the charge that will be made for the carriage of excess luggage;
- (f) the arrangements that will be made for the housing and repair of vehicles, for the comfort and convenience of passengers and for the storage and safe custody of luggage;
- (g) such other matters as may be prescribed."

31. Amendment of section 47, Act IV of 1939.—(1) For sub-section (1) of section 47 of the said Act the following sub-section shall be substituted, namely:—

"(1) A Regional Transport Authority shall in considering an application for a stage carriage permit, have regard to the following matters, namely:—

- (a) the interest of the public generally;
- (b) the advantages to the public of the service to be provided, including the saving of time likely to be effected thereby and any convenience arising from journeys not being broken;
- (c) the adequacy of other passenger transport services, operating, or likely to operate in the near future, whether by road or other means, between the places to be served;
- (d) the fares proposed to be charged by that or any other applicant, the fares charged or proposed to be charged by any of the services mentioned in clause (c), and the effect on existing services of the fares proposed to be charged by the applicant;
- (e) the operation by the applicant of other transport services (including those in respect of which applications from him for permits are pending) and in particular of less remunerative or unremunerative services in conjunction with more remunerative services;
- (f) the condition of the roads included in the proposed route or routes;

(g) such other matters as may be prescribed;

and shall also take into consideration any representation made by persons already providing passenger transport facilities by any means along or near the proposed route or routes, or by any association representing persons interested in the provision of road transport facilities recognised in this behalf by the Provincial Government, or by any local authority or police authority within whose jurisdiction any part of the proposed route or routes lies."

(2) To the said section 47, the following sub-section shall be added, namely:—

"(3) A Regional Transport Authority may, having regard to the matters mentioned in sub-section (1), limit the number of stage carriages generally or of any specified type, for which stage carriage permits may be granted in the region, or in any specified area or on any specified route within the region."

32. Substitution of new section for section 48, Act IV of 1939.—For section 48 of the said Act the following section shall be substituted, namely:—

"48. Grant of stage carriage permits.—(1) Subject to the provisions of section 47, a Regional Transport Authority may, on an application for the grant of a stage carriage permit, grant a permit in the form applied for or in a modified form or refuse to grant a permit:

Provided that a permit granted in a modified form shall not be made valid for any route not specified in the application * * * .

(2) Every stage carriage permit shall be expressed to be valid only for a specified route or routes or for a specified area.

(3) A Regional Transport Authority, if it decides to grant a stage carriage permit, may grant the permit for a service of stage carriages of specified description or for one or more particular stage carriages, and may, subject to any rules which may be prescribed, attach to the permit any one or more of the following conditions, namely:—

- (i) that the service or services or specified parts thereof shall be commenced with effect from a specified date or dates;
- (ii) the minimum and maximum number of daily services to be maintained on the route or routes generally or on specified days and occasions;
- (iii) that the time-table of the services or of particular stage carriages approved by the Authority shall be exhibited on the vehicles and at specified stands and at halts on the route;
- (iv) that the services shall be operated within such margins of deviation from the approved time-table as the Authority may from time to time specify;
- (v) that within municipal limits and such other areas and places as may be prescribed passengers or goods shall not be taken up or set down except at specified points;
- (vi) the maximum number of passengers and the maximum weight of luggage that may be carried on any specified vehicle or on any vehicle of a specified type, either generally or on specified occasions or at specified times and seasons;
- (vii) the weight and nature of passengers' luggage that shall be carried free of charge, the total weight of luggage that may be carried in relation to each passenger, and the arrangements that shall be made

for the carriage of luggage without causing inconvenience to passengers;

(viii) the rate of charge that may be levied for passengers' luggage in excess of the free allowance:

(ix) that vehicles of specified types fitted with bodies conforming to approved specifications shall be used:

Provided that the attachment of this condition to a permit shall not prevent the continued use, for a period of two years from the date of publication of the approved specifications, of any vehicle operating on that date;

(ixa) that specified standards of comfort and cleanliness shall be maintained in the vehicles;

(x) the conditions subject to which goods may be carried in any stage carriage in addition to or to the exclusion of passengers;

(xi) that fares shall be charged in accordance with the approved fare table;

(xii) that a copy of, or extract from, the fare table approved by the Authority and particulars of any special fares or rates of fares so approved for particular occasions shall be exhibited on every stage carriage and at specified stands and halts:

(xiii) that tickets bearing specified particulars shall be issued to passengers for fares paid and that records of tickets issued shall be kept in a specified manner;

(xiv) that mails shall be carried on any of the vehicles authorised by the permit subject to such conditions (including conditions, as to the time in which mails are to be carried and the charges which may be levied) as may be specified;

(xv) that no discrimination shall be made among persons offering to travel and no undue preference or advantage shall be given to any particular person or class of persons;

(xvi) the reserve of vehicles to be kept by the permit holder to maintain the service and to provide for special occasions;

(xvii) the conditions subject to which any vehicle covered by the permit may be used as a contract carriage;

(xviii) that specified arrangements shall be made for the housing, maintenance and repair of vehicles;

(xix) that any specified bus station or shelter maintained by Government or a local authority shall be used and that any specified rent or fee shall be paid for such use;

(xx) that the conditions of the permit shall not be departed from, save with the approval of the Authority;

(xxi) that the Authority may at any time after giving due notice—

(a) vary specified conditions of the permit;

(b) attach to the permit further specified conditions;

(xxii) any other conditions which may be prescribed."

38. Amendment of section 49, Act IV of 1939.—In section 49 of the said Act,—

(a) for the words "a motor vehicle as a contract carriage" the words "one or more motor vehicles as a contract carriage or carriages" shall be substituted;

(b) in clause (a), after the word "vehicle" the words "or vehicles" shall be inserted;

(c) after clause (b) the following clause shall be inserted, namely:—

“(bb) the fares or rates of hiring proposed to be charged.”.

34. Amendment of section 50, Act IV of 1939.—In section 50 of the said Act,—

(a) for the words “deciding whether to grant or refuse” the words “considering an application for” shall be substituted;

(b) after the words “have regard to” the words “the fares or rates of hiring proposed to be charged and” shall be inserted.

35. Substitution of new section for section 51, Act IV of 1939.—For section 51 of the said Act the following section shall be substituted, namely:—

“51. Grant of contract carriage permits.—(1) Subject to the provisions of section 50, a Regional Transport Authority may, on an application for the grant of a contract carriage permit, grant a permit in the form applied for or in a modified form or refuse to grant a permit:

Provided that the permit granted in a modified form shall not be made valid for any area not specified in the application.

(2) A Regional Transport Authority, if it decides to grant a contract carriage permit, may, subject to any rules which may be prescribed, attach to the permit any one or more of the following conditions, namely:—

(i) that the vehicle or vehicles shall be used only in a specified area or on a specified route or routes;

(ii) that except in accordance with specified conditions no contract of hiring, other than an extension or modification of a subsisting contract, may be entered into outside a specified area;

(iii) the conditions subject to which goods may be carried in any contract carriage in addition to or to the exclusion of passengers;

(iv) that, in the case of motor cabs, specified fares or rates of fares shall be charged and a fare table displayed on the vehicle;

(v) that, in the case of vehicles other than motor cabs, specified rates of hiring not exceeding specified maxima shall be charged;

(vi) that in the case of motor cabs a specified weight of passengers' luggage shall be carried free of charge, and that the charge, if any, for any luggage in excess thereof shall be at a specified rate;

(vii) that in the case of motor cabs a taxi-meter shall be fitted and maintained in proper working order;

(viii) that the Authority may at any time after giving due notice—

(a) vary specified conditions of the permit;

(b) attach to the permit further specified conditions;

(ix) that the conditions of the permit shall not be departed from save with the approval of the Authority;

(x) any other conditions which may be prescribed.”

36. Amendment of section 53, Act IV of 1939.—In section 53 of the said Act,—

(a) in sub-section (1) for the words “deciding whether to grant or refuse” the words “considering an application for” shall be substituted, and the words “or vehicles” at both places where they occur shall be omitted;

(b) after sub-section (1) the following sub-section shall be inserted, namely:—

“(1A) Subject to the provisions of sub-section (1), the Regional Transport Authority may grant a permit in the form applied for or in a modified form or refuse to grant a permit.”;

(c) to sub-section (2) the words "or any other matter which may be prescribed" shall be added;

(d) in sub-section (3) the words "at its discretion" shall be omitted, and after the words, brackets and figure "in sub-section (1)" the words, brackets, figure and letter "and without prejudice to the provisions of sub-section (1A)" shall be inserted.

37. Substitution of new section for section 54, Act IV of 1939.—For section 54 of the said Act the following section shall be substituted, namely:—

"**54. Application for public carrier's permit.**—An application for a permit to use one or more motor vehicles for the carriage of goods for hire or reward (in this Chapter referred to as a public carrier's permit) shall include the following particulars, namely:—

- (a) the area in which, or the route or routes on which, it is intended to use the vehicles;
- (b) the number, type and carrying capacity of the vehicles;
- (c) the nature of the goods it is proposed to carry;
- (d) the freight rates it is proposed to charge;
- (e) the premises intended to be used for the storage and safe custody of the goods to be carried and for the housing of the vehicles;
- * * * * *
- (f) the manner in which it is claimed that a public need will be served by the vehicles;
- (g) such particulars as the Authority may require with respect to any business as a carrier of goods for hire or reward carried on by the applicant at any time before the making of the application, and of the rates charged by him;
- (h) particulars of any agreement or arrangements, affecting in any material respect the provision within the region of the Authority of facilities for the transport of goods for hire or reward, entered into by the applicant with any other person by whom such facilities are provided, whether within or without the region;
- (i) any other particulars which may be prescribed."

38. Substitution of new section for section 55, Act IV of 1939.—For section 55 of the said Act the following section shall be substituted, namely:—

"**55. Procedure in considering application for public carrier's permit.**—(1) A Regional Transport Authority shall, in considering an application for a public carrier's permit, have regard to the following matters, namely:—

- (a) the interest of the public generally;
- (b) the advantages to the public of the service to be provided and the convenience afforded to the public by the provision of such service and the saving of time likely to be effected thereby;
- (c) the adequacy of other goods services, operating or likely to operate in the near future, whether by road or other means, between the places to be served;
- (d) the freight rates proposed to be charged and their effect on the existing services;
- (e) the operation by the applicant of other transport services, including those in respect of which applications from him for permits are pending;
- (f) the condition of the roads included in the proposed routes or areas;

* * * * *

(g) the nature of the goods that will be carried with special reference to any of a fragile or perishable nature;

(h) any other matters which may be prescribed;

and shall also take into consideration any representation made by persons already providing goods transport facilities by any means along or near the proposed route or in the proposed area, or by any local authority or police authority within whose jurisdiction any part of the proposed route or area lies.

(2) A Regional Transport Authority may, having regard to the matters mentioned in sub-section (1), limit the number of transport vehicles generally or of any specified type for which public carrier's permits may be granted in the region or in any specified area or on any specified route within the region."

39. Substitution of new section for section 56, Act IV of 1939.—For section 56 of the said Act the following section shall be substituted, namely:—

"**56. Grant of public carrier's permits.**—(1) Subject to the provisions of section 55, a Regional Transport Authority may, on an application for the grant of a public carrier's permit, grant a permit in the form applied for or in a modified form or refuse to grant a permit:

Provided that the permit granted in a modified form shall not be made valid for any route not specified in the application * * *

(2) The Regional Transport Authority if it decides to grant a permit, may grant a permit for one or more goods vehicles of a specified description and may subject to any rules which may be prescribed, attach to the permit any one or more of the following conditions, namely:—

- (i) that the vehicle or vehicles shall be used only in a specified area, or on a specified route or routes;
- (ii) that the laden weight of any vehicle used shall not exceed a specified maximum;
- (iii) that goods of a specified nature shall not be carried;
- (iv) that goods shall be carried at specified rates;
- (v) that specified arrangements shall be made for the housing, maintenance and repair of the vehicles and the storage and safe custody of the goods carried;
- (vi) that such records as may be specified relating to the operation of the vehicles shall be maintained;
- (vii) that the Authority may at any time after giving due notice—
 - (a) vary specified conditions of the permit;
 - (b) attach to the permit further specified conditions;
- (viii) that the conditions of the permit shall not be departed from save with the approval of the Authority;
- (ix) any other conditions which may be prescribed."

40. Amendment of section 57, Act IV of 1939.—(1) In section 57 of the said Act,—

(a) in sub-section (3), after the words "stage carriage permit" the words "or a contract carriage permit" shall be inserted;

(b) to sub-section (3) the following proviso shall be added, namely:—

"Provided that, if the granting of the application in the form applied for or in a modified form will increase the number of vehicles operating in the region, or in any area or on any route within the region, under the class of permits to which the application relates, beyond the limit fixed in that behalf under sub-section (3) of section 47 or sub-section (2) of section 55, as the case may be, the Regional Transport Authority may summarily refuse the application without following the procedure laid down in this sub-section."

(2) To the said section the following sub-sections shall be added, namely:—

"(8) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new area, or in the case of a stage carriage permit, to increase the number of services above the specified maximum, or in the case of a contract carriage permit or a public carrier's permit, to increase the number of vehicles covered by the permit, shall be treated as an application for the grant of a new permit:

Provided that it shall not be necessary so to treat an application by the holder of a stage carriage permit who provides the only service on any route or in any area to increase the frequency of the service so provided.

(9) A Regional Transport Authority may, before the 1st day of July 1947, replace any stage carriage permit, contract carriage permit or public carrier's permit granted by it before the 81st day of March 1947 by a permit conforming to the provisions of section 48, section 51 or section 58, as the case may be, and valid for the same route or routes or the same area as the replaced permit:

Provided that no condition other than a condition contained in the replaced permit or a condition that could have been imposed, as a condition of the permit or otherwise, under the law in force when the replaced permit was granted, shall be included in the fresh permit except with the consent in writing of the holder.

(10) Notwithstanding anything contained in section 58, a permit issued under the provisions of sub-section (9) shall be effective without renewal for the remainder of the period during which the replaced permit would have been so effective."

41. Amendment of section 58, Act IV of 1939.—In sub-section (1) of section 58 of the said Act, the words "in its discretion" and the proviso shall be omitted.

42. Amendment of section 59, Act IV of 1939.—In sub-section (3) of section 59 of the said Act,—

(a) clause (c) shall be omitted;

(b) in clause (e), after the word "drivers" the words "and conductors" shall be inserted.

42A. Insertion of new section 59A in Act IV of 1939.—After section 59 of the said Act, the following section shall be inserted, namely:—

"59A. General form of permits.—Every permit other than a temporary permit issued under section 62 shall consist of two parts, part A of which shall be complete in itself and contain all the necessary particulars of the permit and the conditions attaching thereto, and part B of which shall be a summary of the permit containing such particulars as may be prescribed; and where a permit covers more than one vehicle there shall be issued to the holder of the permit as many copies of part B as there are vehicles authorised by the permit to be in operation at any one time."

43. Amendment of section 60, Act IV of 1939.—In section 60 of the said Act—

(a) in sub-section (1), after clause (d) the following word and clause shall be inserted, namely:—

"or

(e) if the holder of the permit, not being a private carrier's permit, fails without reasonable cause to use vehicle or vehicles for the purposes for which the permit was granted;"

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The transport authority which granted a permit may, after giving the holder thereof an opportunity to submit his explanation, reduce, either permanently or for such period as it thinks fit, the number of vehicles or routes covered by the permit on any of the grounds mentioned in sub-section (1).";

(o) in sub-section (2), after the word "permit" the words "or reduces the number of vehicles or routes covered by a permit" shall be inserted, and for the words "revocation or suspension" the words "action taken" shall be substituted.

44. Amendment of section 62, Act IV of 1939.—In section 62 of the said Act,—

(a) the words "at its discretion, and" shall be omitted;

(b) after clause (c) the following word and clause shall be inserted, namely:—
"or

(d) pending the decision on an application for the renewal of a permit;".

45. Amendment of section 63, Act IV of 1939.—To section 63 of the said Act the following sub-section shall be added, namely:—

"(6) A Provincial Government may by rules made under section 68 prescribe the conditions subject to which a document issued by a competent authority in an Indian State or in the French or Portuguese Settlements bounded by India authorising the use of a motor vehicle as a transport vehicle may be deemed for the purposes of sub-section (1) to be a permit granted under this Chapter in the province."

46. Amendment of section 64, Act IV of 1939.—For clause (g) of section 64 of the said Act, the following clauses shall be substituted, namely:—

"(g) aggrieved by the refusal to grant permission under sub-section (1) or sub-section (2) of section 69, or

(h) aggrieved by a reduction under sub-section (1A) of section 60 in the number of vehicles or routes covered by a permit;".

47. Amendment of section 65, Act IV of 1939.—(1) In section 65 of the said Act,—

(a) in sub-section (1), after the word "driving" the words "or acting as conductor of" shall be inserted, and for the word "fifty-four" the word "forty-eight" shall be substituted;

(b) in sub-section (5), after the word "driver" the words "or conductor" shall be inserted.

(2) To the said section, the following sub-section shall be added namely:—

"(6) On a joint application by the drivers or conductors of transport vehicles on any route or in any area and their employers, or by such organisations representative of those drivers or conductors and employers as may be recognized in this behalf by the Provincial Government, the Provincial Government may by notification in the official Gazette vary any of the provisions of this section in its application to such route or area as the case may be:

Provided that no such variation shall be made unless the Provincial Government is satisfied that the variation is not likely to be detrimental to the public safety."

47A. Insertion of new section 66A in Act IV of 1939.—After section 66 of the said Act, the following section shall be inserted, namely:—

66A. Special powers as to stage carriage services.—(1) If a transport authority is satisfied that a service of stage carriages for which a permit has been granted by it is not being maintained in accordance with the permit, or that any condition or conditions of the permit is or are frequently contravened, or that in spite of warning given by the authority the conduct of the drivers or conductors generally in their relations with the public continues to be objectionable, the authority may by order in writing impose on the holder of the permit such penalty not exceeding five thousand rupees as it thinks fit;

Provided that no such order shall be made unless the grounds on which it is proposed to take action under this sub-section have been set out in sufficient detail and communicated to the holder of the permit, and a reasonable opportunity has been given to him to show cause against such action.

(2) If any penalty imposed on any person under sub-section (1) is not paid within the prescribed time to the transport authority imposing the penalty, that authority may notify in writing to any magistrate within the local limits of whose jurisdiction such person carries on business the name and address of the said person and the amount of penalty recoverable from him, and such magistrate shall thereupon proceed to recover the amount as if it were a fine inflicted by the magistrate.

(3) Any person aggrieved by the imposition of a penalty under sub-section (1) in respect of a service of stage carriages maintained by him may, within the prescribed time and in the prescribed manner, appeal to the Court of Session within the local limits of whose jurisdiction such person's principal place of business for maintaining the service of stage carriages is situate, or if such place of business is situate in a Presidency-town, to such Court of Session as the Provincial Government shall, by notification in the official Gazette, designate in this behalf:

Provided that no such appeal shall lie unless the person has deposited with the transport authority the amount of penalty imposed on him."

48. Amendment of section 67, Act IV of 1939.—In clause (a) of sub-section (1) of section 67 of the said Act, after the words "of and the conduct" the words "and duties" shall be inserted.

49. Amendment of section 68, Act IV of 1939.—In sub-section (2) of section 68 of the said Act,—

(a) in clause (d), after the words "place of permits" the words "mutilated, defaced," shall be inserted;

(b) after clause (h) the following clause shall be inserted, namely:—

"(hh) the conditions subject to which and the extent to which a permit granted in another province shall be valid in the province without countersignature;"

(c) after clause (i), the following clause shall be inserted, namely:—

"(ii) the conditions to be attached to permits for the purpose of giving effect to any agreement such as is referred to in clause (iii) of sub-section (1) of section 43;"

* * * *

(d) in clause (o) for the words "prohibiting the painting or marking of a stage or a contract carriage" the words "regulating the painting or marking of transport vehicles and the display of advertising matter thereon, and in particular prohibiting the painting or marking of transport vehicles" shall be substituted;

(e) for clause (s) the following clauses shall be substituted, namely:—

"(s) the requirements which shall be complied with in the construction or use of any duly notified stand or halting place, including the provision of adequate equipment and facilities for the convenience of all users thereof, the fees, if any, which may be charged for the use of such facilities, the records which shall be maintained at such stands or places, the staff to be employed thereat and the duties and conduct of such staff, and generally for maintaining such stands and places in a serviceable and clean condition;

(ss) the regulation of motor-cab ranks;"

(f) after clause (t) the following clause shall be inserted, namely:—

"(tt) authorising specified persons to enter at all reasonable times and inspect all premises used by permit-holders for the purposes of their business;"

(g) after clause (w) the following clause shall be inserted, namely:—

"(ww) the licensing of * * agents engaged in the business of collecting, forwarding and distributing of goods carried by road;".

50. Amendment of section 71, Act IV of 1939.—(1) In sub-section (2) of section 71 of the said Act, after the words "official Gazette" the words and figures "and by causing appropriate traffic signs to be placed or erected under section 75 at suitable places," shall be inserted; and to the said sub-section the following proviso shall be added, namely:—

"Provided that where any restriction under this section is to remain in force for not more than one month, notification thereof in the official Gazette shall not be necessary."

(2) To the said section 71 the following sub-section shall be added, namely:—

"(3) Nothing in this section shall apply to any vehicle registered under section 39 while it is being used in the execution of military manoeuvres within the area and during the period specified in a notification under sub-section (1) of section 2 of the Manoeuvres, Field Firing and Artillery Practice Act, 1938 (V of 1938)."

51. Amendment of section 72, Act IV of 1939.—In section 72 of the said Act,—

(a) in sub-section (1) for the words "heavy transport vehicles" the words "heavy motor vehicles" shall be substituted, and the proviso shall be omitted;

(b) in sub-section (3), the word "or" at the end of clause (b), and clause (c) shall be omitted.

52. Amendment of section 74, Act IV of 1939.—To section 74 of the said Act the following shall be added, namely:—

"and when any such prohibition or restriction is imposed, shall cause appropriate traffic signs to be placed or erected under section 75 at suitable places:

Provided that where any prohibition or restriction under this section is to remain in force for not more than one month, notification thereof in the official Gazette shall not be necessary, but such local publicity shall be given thereto as the circumstances may permit."

53. Amendment of section 75, Act IV of 1939.—(1) In sub-section (1) of section 75 of the said Act after the words "purpose of" the words, brackets and figures "bringing to public notice any speed limits fixed under sub-section (2) of section 71 or any prohibitions or restrictions imposed under section 74, or generally for the purpose of" shall be inserted.

(2) To the said section the following sub-sections shall be added namely:—

"(5) No person shall wilfully remove, alter, deface, or in any way tamper with, any traffic sign placed or erected under this section.

(6) If any person accidentally causes such damage to a traffic sign as renders it useless for the purpose for which it is placed or erected under this section, he shall report the circumstances of the occurrence to a police officer or at a police station as soon as possible, and in any case within twenty-four hours of the occurrence."

54. Amendment of section 86, Act IV of 1939.—In section 86 of the said Act,—

(a) in sub-section (1), after the words "in uniform" the words "authorised in this behalf by the Provincial Government," shall be inserted;

(b) in sub-section (2), after the words "motor vehicle," the words and figures "other than a vehicle registered under section 39," shall be inserted.

55. Amendment of section 89, Act IV of 1939.—In section 89 of the said Act,—

(a) after the words "person is injured" the words "or damage to property to the amount of twenty-five rupees or more is caused" shall be inserted;

(b) in clause (a), for the words "the injured person", where they first occur the words "any person so injured," shall be substituted;

(c) in clause (b), for the words "at the nearest police station as soon as possible, and in any case within twenty-four hours of the occurrence" the words "as soon as possible, and in any case within twenty-four hours of the occurrence, at the nearest police station or, if he continues his journey after the accident, at the next police station on or near his route" shall be substituted.

56. Amendment of section 92, Act IV of 1939.—In sub-section (3) of section 92 of the said Act, for the words and figures "the International Convention relating to motor traffic concluded at Paris on the 24th day of April, 1928, or any Convention modifying the same" the words "any international convention relative to motor traffic to which the Central Government is for the time being a party," shall be substituted.

* * * *

65. Amendment of section 115, Act IV of 1939.—In sub-section (3) of section 115 of the said Act, the word "timing" shall be omitted.

66. Amendment of section 129, Act IV of 1939.—In section 129 of the said Act,—

(a) to sub-section (2), the following shall be added, namely:—

"and the said Court shall, on the first appearance of such driver before it, return the licence to him in exchange for the temporary acknowledgment given under sub-section (3);"

(b) in sub-section (3), for the words "the Court has otherwise ordered" the following shall be substituted, namely:—

"up to a date which the police officer shall specify in the temporary acknowledgment, whichever is earlier:

Provided that where for any cause in respect of which the holder is not at fault, he is unable to appear in Court before the temporary acknowledgment ceases to be effective, any Magistrate or police officer authorised by the Provincial Government in this behalf may, on application made to him, substitute a later date in the temporary acknowledgment given under this sub-section."

66A. Amendment of Section 129A, Act IV of 1939.—In section 129A of the said Act, the words, brackets and figure "sub-section (1) of", where they first occur, shall be omitted.

67. Insertion of new section 133B in Act IV of 1939.—After section 129A of the said Act the following section shall be inserted, namely:—

"133B. General provisions regarding appeals to prescribed appellate authorities.—In any appeal under sub-section (2) of section 18, sub-section (3) of section 15, sub-section (2) of section 16, sub-section (1) of section 85, section 64, or sub-section (3) of section 66A,—

(a) the order appealed against shall remain in force pending the disposal of the appeal, unless the appellate authority makes, which it is hereby authorised to do, any direction to the contrary;

(b) the order appealed against shall not be reversed or altered by reason only of any error, omission or irregularity in the proceedings or order of the original authority which does not materially affect the merits of the case."

68. Amendment of First Schedule, Act IV of 1939.—In the First Schedule to the said Act,—

(a) for Form A the following Form shall be substituted, namely:—

"FORM A"

[See section 7 (2)]

Form of application for licence to drive a motor vehicle

I

Application

I apply for a licence to enable me to drive *as a paid employee *public service vehicles, *goods vehicles, the vehicles I wish to drive being of the following class(es)*

- *(a) motor cycles,
- *(b) invalid carriages,
- *(c) light motor vehicles, * * *
- *(d) medium motor vehicles,
- *(e) heavy motor vehicles,
- *(f) road rollers,
- *(g) a vehicle of a special type (description attached) constructed or adapted to be driven by me.

II

Particulars to be furnished by the applicant

1. Full name and name of father or husband.....
2. Permanent address
3. Temporary address
4. Age at the date of application
5. Have you previously held a licence? If so, give particulars of all licences held
6. Has any licence held by you been endorsed? If so, give particulars and the date of each endorsement
7. Have you been disqualified for obtaining a licence to drive? If so, for what reason.....
8. Have you been subjected to driving test as to your fitness or ability to drive a vehicle in respect of which a licence to drive is applied for? If so, give date, testing authority and result of test

III

Declaration as to physical fitness of applicant and knowledge of driving regulations and traffic signs

The applicant is required to answer "Yes" or "No" in the space provided opposite each question.

(a) Do you suffer from epilepsy, or from sudden attacks of disability, giddiness or fainting?

(b) Are you able to distinguish with each eye at a distance of 25 yards in good daylight (with glasses, if worn) a motor car number plate containing seven letters and figures?

(c) Have you lost either hand or foot or are you suffering from any defect in movement, control or muscular power of either arm or leg?

(d) Can you readily distinguish the pigmentary colours red and green?

(e) Do you suffer from night blindness?

(f) Are you so deaf as to be unable to hear the ordinary sound signals?

* Strike out whatever is not applicable.

(g) Do you suffer from any other disease or disability likely to cause your driving of a motor vehicle to be source of danger to the public?

(h) Are you cognisant of the provisions of sections 81, 82, 83, 84 and 85 of, and the Tenth Schedule to, the Motor Vehicles Act, 1939?

(i) Do you know the meaning of the traffic signs specified in the Ninth Schedule to the Motor Vehicles Act, 1939?

I declare that to the best of my knowledge and belief the particulars given in Section II and the declaration made in Section III hereof are true.

NOTE 1.—An applicant who answers "Yes" to any of questions (a), (c), (e), (f) and (g), or "No" to either of questions (b) and (d) should amplify his answer with full particulars; and may be required to give further information relating thereto.

NOTE 2.—An applicant who answers "Yes" to questions (b), (c), (d), (h), and (i), in the declaration and "No" to the other questions may claim to be subjected to a test as to his competency to drive vehicles of a specified class or classes.

NOTE 3.—The provisions of the Motor Vehicles Act, 1939, referred to in question (h) are reproduced on the attached sheet, which should be detached and kept for subsequent guidance.

Dated 19

Signature or thumb impression of applicant.

NOTE.—The fee for the issue of a driving licence is Rs. 5/-.

Certificate of test of ability to drive

The applicant has passed/failed in the test specified in the Third Schedule to the Motor Vehicles Act, 1939. The test was conducted on a (here enter description of vehicle) on date

Signature of Testing Authority.

Duplicate signature or thumb impression of applicant.;

(b) after Form A the following Form shall be inserted, namely:—

"FORM AA

(See section 8A)

Form of application for the addition of a new class of vehicle to a driving licence.

I hereby apply for the addition of the following class/classes of motor vehicle to the attached licence:—

- (a) Motor cycles,
- (b) invalid carriages,
- (c) light motor vehicles, * * *
- (d) medium motor vehicles,
- (e) heavy motor vehicles,
- (f) road rollers,
- (g) a vehicle of a special type (description attached) constructed or adapted to be driven by me.

*I enclose (a) a medical certificate

(b) three copies of a recent photograph.

*Required only where the applicant is not entitled to drive as a paid employee or to drive a transport vehicle and now wishes to do so. Strike out if not applicable.

Dated 19

Signature of Applicant.

NOTE.—No fee other than a fee for a test of competence to drive is chargeable for the addition of a new class of vehicle to a driving licence.;

(c) for Form B the following Form shall be substituted, namely:—

"FORM B.

(See section 11)

Form of application for the renewal of driving licence

I hereby apply for the renewal of my driving licence which is attached, and particulars of which are as follows:—

- (a) Number
- (b) Date of issue
- (c) Licensing Authority by which licence was issued

My present address is

If this address is not entered on the licence I do/do not wish that it should be so entered.

If the licence is not attached, reasons why it is not available

If the licence was not renewed within 15 days of the date of expiry, full reasons for the delay

I hereby declare that I am not subject to any disease or disability likely to cause my driving of motor vehicles of the classes entered in my licence to be a source of danger to the public.

Dated

19

Signature of applicant.

Address:

NOTE.—The fee for the renewal of a licence is fixed by section 11 of the Motor Vehicles Act, 1939 reproduced on the reverse.

(Reverse)

11. *Renewal of licences.*—(1) Any licensing authority may on application made to it renew a licence issued under the provisions of this Act with effect in all cases, whether the application for renewal is made within the time specified in sub-section (3) or otherwise, from the date of its expiry.

(2) An application for the renewal of a licence shall be made in Form B as set forth in the First Schedule and shall contain the declaration required by that form; provided that where the applicant does not or is unable to subscribe to the said declaration the provisions of sub-section (5) of section 7 shall apply.

(3) Where an application for the renewal of a licence is made previous to, or within a period of fifteen days after, the date of its expiry, the fee for the renewal shall be three rupees.

(3A) Where an application for the renewal of a licence is made more than fifteen days after its expiry, the licensing authority shall, on payment of the fee for renewal of five rupees, renew the licence up to the anniversary of its issue immediately following the date of such renewal:

Provided that if the licensing authority is satisfied that the holder was prevented by good cause from applying within the time specified in sub-section (3), the fee for renewal shall be three rupees:

Provided further that if the application is made more than three years after the licence has ceased to be effective under the provisions of section 10, the licensing authority may refuse to renew the licence unless the applicant undergoes and passes to its satisfaction the test of competence to drive specified in the Third Schedule.

(4) When the authority renewing the licence is not the authority which issued the licence, it shall intimate the fact of renewal to the authority which issued the licence.' ';

(d) in Form D,—

(i) for items (b) to (k), both inclusive, the following shall be substituted, namely:—

“(b) Invalid carriage.

(c) Light motor vehicle.

(d) Medium motor vehicle.

(e) Heavy motor vehicle.

(f) Road-roller.

(g) A motor vehicle hereunder described:—”;

(ii) after the word and asterisk “paid employee*”, the words and asterisk “a transport vehicle*” shall be inserted;

(e) in Form E,—

(i) after entry 8, the following entry shall be inserted, namely:—

“8A. Colour or colours of body, wings and front end.....”;

(ii) in entry 16, after the word “weight” the brackets and words “(to be furnished in the case of heavy motor vehicles only)” shall be inserted;

(iii) for the words “two or three axles, for an articulated vehicle of three” the words “two or more axles, for an articulated vehicle of three or more” shall be substituted;

(iv) in entry 19, for the word “the” the word “each” shall be substituted;

(v) to entry 20 the words and brackets “in respect of each axle (to be furnished in the case of heavy motor vehicles only)” shall be added;

(f) Form F shall be omitted;

(g) in Form G,—

(i) after entry 8, the following entry shall be inserted, namely:—

“8A. Colour or colours of body, wings and front end.....”;

(ii) in entry 14, after the word “weight” the brackets and words “(in the case of heavy motor vehicles only)” shall be inserted;

(iii) in entry 17, for the word “the” the word “each” shall be substituted;

(iv) to entry 18 the words and brackets “in respect of each axle (in the case of heavy motor vehicles only)” shall be added.

(h) in Form H, for the words, figures and brackets “sections 38 and 39(8)”; the word and figures “section 38” shall be substituted.

89. Amendment of Fourth Schedule, Act IV of 1939.—In the Fourth Schedule to the said Act,—

(a) in Part A, * * * for the entries in the second column, the following shall be substituted, namely:—

“1. Officers commanding units having motor vehicles in their charge.

2. Royal Air Force, and Royal Indian Air Force, Officers commanding Driver Mechanical Transport Schools.

3. Royal Air Force, and Royal Indian Air Force, Presidents of Schools and Local Trade Test Boards.”

(b) in Part B, * * * for the entry in the second column, the following entries shall be substituted, namely:—

- “1. The Master General of Ordnance in India, or any person authorised by him in this behalf.
2. The Air Officer Commanding-in-Chief, India, or any other officer authorised by him in this behalf.”

70. Omission of Seventh Schedule, Act IV of 1939.—The Seventh Schedule to the said Act shall be omitted.

71. Substitution of new Schedule for Eighth Schedule, Act IV of 1939.—For the Eighth Schedule to the said Act the following Schedule shall be substituted namely:—

“THE EIGHTH SCHEDULE

(See section 71)

Limits of Speed for Motor Vehicles

| Class of Vehicles | Maximum speed per hour Miles |
|--|---------------------------------|
| (1) If all the wheels of the vehicle are fitted with pneumatic tyres and the vehicle is not drawing a trailer: | |
| (a) if the vehicle is a light motor vehicle or a motor cycle | No limit |
| (b) if the vehicle is a medium motor vehicle | 35 |
| (c) if the vehicle is a heavy motor vehicle and a public service vehicle | 30 |
| (d) if the vehicle is a heavy motor vehicle but not a public service vehicle | 25 |
| (2) If the vehicle is drawing not more than one trailer (or in the case of artillery equipment, not more than two trailers) and all the wheels of the drawing vehicle and the trailer are fitted with pneumatic tyres: | |
| (a) if the vehicle is a light motor vehicle and the trailer being two-wheeled has a laden weight not exceeding 1,700 pounds <i>avoir-dupuis</i> | 35 |
| (b) if the vehicle is a light motor vehicle and the trailer has more than two wheels or a laden weight exceeding 1,700 pounds <i>avoir-dupuis</i> | 30 |
| (c) if the vehicle is a medium motor vehicle | 25 |
| (d) if the vehicle is a heavy motor vehicle | 20 |
| 3) Any case not covered by entry (1) or entry (2) | 15 |

M. N. KAUL,
Secy. to the Govt. of India.

